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**(2009) 11 UK CK 0017**

**In the Uttarakhand High Court**

**Case No : Writ Petition No. 3870 (M/S) of 2001**

Ram Das and Others

APPELLANT

Vs

Board of Revenue and Others

RESPONDENT

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**Date of Decision : 06-11-2009**

**Acts Referred:**

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 132, 195, 197, 198, 198(1)  
Uttar Pradesh Zamindari Abolition and Land Reforms Rules, 1952 — Rule 173, 174, 175, 176, 176(1)

**Citation : (2009) 11 UK CK 0017**

**Hon'ble Judges : Alok Singh, J**

**Bench : Single Bench**

**Advocate : N.S. Negi and Narendra Bali, for the Appellant; R.C. Arya, Brief Holder for Respondents No. 1, 2, 3 and 119, Dinesh Chauhan, for Respondents No. 5 to 118 and Lok Pal Singh, for the Respondent**

**Final Decision : Dismissed**

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## **Judgement**

Alok Singh, J.—Heard Mr. N.S. Negi and Mr. Narendra Bali, Learned Counsel for the Petitioners, Mr. R.C. Arya, Learned Brief Holder for the Respondent Nos. 1,2,3 and 119, Mr. Dinesh Chauhan, Learned Counsel for the Respondents No. 5 to 118 and Mr. Lok Pal Singh, Learned Counsel for the Respondent No. 4.

2. Present writ petition has been filed by the Petitioner assailing the order dated 30-09-1993 passed by Additional Collector, order dated 01-06-1994 passed by Additional Commissioner (Judicial), Meerut Division, Meerut and order dated 13-06-1996 passed by Board of Revenue, Uttar Pradesh by which all the authorities have cancelled the resolution of the Gaon Sabha / Land Management Committee dated 16-02-1990 whereby proposal was made to make allotments / grant pattas to the Petitioners.

3. Brief facts of the present case are that father of Respondent No. 4 made complaint to the Additional Collector, Hardwar saying that over the Khasra No. 5

measuring 1 Bigha 15 Biswas and Khasra No. 86 measuring 4 Biswas he is in continuous possession and proposed allotment dated 16-02-1990 pertaining to Khasra No. 5 and 86 is illegal, void, ab initio and is in violation of Rules 173 to 176A of U.P. Zamindari Abolition and Land Reforms Rules, 1952. Learned Additional Collector vide impugned order dated 30-09-1993 quashed the resolution dated 16-02-1990 by observing that proposal was not made in favour of eligible persons. Not only this some of the prospective allottees were minor and no sanction / approval was ever sought from the Collector, it was further observed that proposed allotments in favour of Paltoo, father of Up-Pradhan and Subhash minor son of Up-Pradhan Palla was ipso facto illegal.

4. Feeling aggrieved from the judgment and order dated 30-09-1993, Revision Nos. 5 and 7 of 1992-93 were preferred by the Petitioners herein before Additional Commissioner (Judicial), Meerut Division, Meerut and the Additional Commissioner, Meerut Division, Meerut, while dismissing the revisions has upheld the findings of facts recorded by Additional Collector vide judgment dated 01-06-1994.

5. Thereafter, further revision Nos. 219 and 220 of 1993-94 were preferred before the Board of Revenue. Learned Board of Revenue agreeing with the judgments passed by Additional Collector and Additional Commissioner (Judicial), dismissed the revisions vide judgment dated 13-08-1996.

6. The main question involved in the present writ petition is as to whether compliance of Rules 173, 174, 175, 176 and 176A of U.P. Zamindari Abolition and Land Reforms Rules, 1952 was made prior to the allotment in question.

7. Rules 173, 174, 175, 176 and 176A of U.P. Zamindari Abolition and Land Reforms Rules, 1952 reads thus:

173. Sections 195, 197 and 198 - Admission to land - Whenever the Land Management Committee intends to admit any person to land u/s 195 or 197, it shall announce by beat of drum in the circle of the Gaon Sabha in which the land is situate at least seven days before the date of meeting for admission of land, the number of plots, their areas and the date on which admission thereto is to be made.

174. On the said date, a meeting of the Committee shall be held to select persons for admission to land as sirdar or asami as the case may be.

A List of the all persons who are present and who express their desire to be admitted to the land shall be prepared in ZA form 57A. The list shall be drawn up separately in respect of the land to be settled to a sirdar and to be settled to an asami. The names of the persons arranged in the list in the order of preference laid down in Section 198.

175. If the number of applicants does not exceed the number intended to be settled on the land in respect of which announcement has been made under Rule 173, the Committee shall, examine the eligibility of the persons included in the

list in ZA Form 57 A and take a decision regarding the plots of land to be settled with each such person. The Committee shall in the same meeting announce the names of the persons selected for settlement of land also the revenue or rent to be fixed for the land proposed to be settled. If the number of applicants belonging to the categories mentioned in Clauses (c), (d) and (e) of Sub-section (1) of Section 198 is more than the number with whom land is intended to be settled the list of applicants shall be placed before a meeting of the residents of the village call by the Land Management Committee and such of the applicants shall be selected for allotment as are considered to be the most suitable on merits on the basis of a consensus arrived at the meeting so convened. If such a consensus cannot arrived at the Land Management Committee shall draw lots to determine the persons with whom the land should be settled.

176. (1) After selecting the person or persons for admission to the land in accordance with Rule 175, the Committee shall prepare -a. a list of persons so selected in ZA Form 57 B.

b. a certificate of admission to land in ZA Form 58; and c. a counterpart in ZA Form 58 A.

(2) The documents referred to in Clauses (a) and (b) of sub rule (1) shall be duly signed by the Chairman of the Land Management Committee but the document referred to in Clause (c) shall be signed by the person so selected for admission to the land.

(3) The document referred to in Sub-rule (1) shall then be forwarded to the Assistant Collector incharge of the sub division along with -(a) a copy of the proceeding of the meeting of the Committee in which the decision to settle land was taken and (b) a certificate from the Lekhpal concerned to the effect that the particulars of the land mentioned in the list are correct and that the admission to the land is in accordance with the provisions of the Act and the Rules.

(4) The Assistant Collector in charge of the sub division shall on receipt of the documents referred to in Sub-rule (3) scrutinize the decision taken by the Committee and if he is satisfied that the decision of the Committee is in accordance with the Act and the rules made thereunder, he shall record his approval on the list in ZA Form 57B and return the papers to the Land - Management Committee within a week of its receipt from the Chairman with the direction that the possession may be delivered to the lessees and the report of the mutation be submitted to the Supervisor Kanoongo by the Lekhpal immediately after delivery of possession.

(5) If the Assistant Collector in charge of sub division finds that the whole or part of the decisions taken by the Committee is not in accordance with the provisions of the Act and Rules, he shall record his disapproval on the list in ZA Form 57 B and return the papers to the Chairman.

176A (1) On receipt of the list in ZA Form 57B with the order of the Assistant

Collector in-charge of Sub Division, the Chairman of the Land Management Committee shall call the person whose selection for allotment of land has been approved by the Assistant Collector in-charge of the sub division and shall furnish to him a certificate in ZA form 58 and shall get a counterpart in ZA Form 58 A executed by him. If the land sought to be allotted is a land referred to in Section 132, the person concerned shall be furnished with the certificate in ZA Form 59 and shall be asked to execute a counterpart in ZA Form 59A:

Provided that no lease shall be made to an Asami for a period exceeding five years.

(2) It shall be lawful for the Assistant Collector in-charge of the sub division to determine at the time the lease in favour of an Asami and upon such determination, the Asami shall not be entitled to any compensation.

8. From the perusal of these Rules, it reveals that first of all Gaon Sabha/ Land Management Committee shall announce by beat of drum in the circle of the Gaon Sabha for admission of land, the number of plots, their areas and the date on which admission thereto is to be made at least 7 days before the date of meeting. Thereafter, the Committee shall select a person for admission to the land as Sirdar or Asami and shall prepare the list of persons who are present and express their desire to be admitted to the land and that list shall be prepared in ZA Form 57A. Thereafter, the Committee shall prepare the list of the eligible persons and in the same meeting announce the names of the persons found eligible and selected and after selection list as per Form ZA 57B and certificate of admission in Form ZA 58 shall be prepared and shall be referred to the Assistant Collector Incharge of the Sub Division for his approval. Thereafter, Assistant Collector In-charge of Sub Division shall take decision for approving or disapproving the list of selected candidates.

9. From the perusal of the records, I find no material to prove that compliance of these Rules was ever made. Not only this, Learned Counsel appearing for the Petitioners before me could not point out any document i.e. list prepared on ZA Form No. 57B and certificate as required for admission to the land in ZA Form 58. Nor order of Assistant Collector First Class approving the list prepared by the Land Management Committee was produced.

10. in the absence of these relevant and vital documents it can safely be said that in the present matter no compliance of Rules 173, 174, 175, 176 and 176A of U.P. Zamindari Abolition and Land Reforms Rules was made. In the absence of compliance of mandatory provisions of the aforesaid Rules entire proceedings of allotment in question stands vitiate. No right can be accrued in favour of the Petitioners pursuant to proposal of allotment dated 16-02-1990.

11. All the three courts below have committed no illegality and jurisdictional error while passing the impugned judgments.

12. In view of observation made hereinabove, impugned judgments do not

warrant any interference by this Court. Consequently, writ petition is dismissed.  
No order as to costs.