
(2010) 05 AHC CK 0261
In the Allahabad High Court

Sachidanand

APPELLANT

Vs

State of U.P. and another

RESPONDENT

Date of Decision : 30-05-2010

Acts Referred:

Citation : (2010) 05 AHC CK 0261

Hon'ble Judges : Rajiv Sharma, J and Ritu Raj Awasthi, J

Final Decision : Allowed

Judgement

Ritu Raj Awasthi, J.

On an endorsement being made by the Joint Registrar (Listing) that Hon''ble Senior Judge has permitted that the writ petition is taken as urgent petition and put up before a Bench comprising Hon''ble Mr. Justice Rajiv Sharma and Hon''ble Mr. Justice Ritu Raj Awasthi today at 4.30 p.m., the matter is presented before at one of our residences [Justice Rajiv Sharma].

1. Supplementary affidavit filed by the petitioner is taken on record.
2. Heard Mr. Gaurav Mehrotra, learned Counsel for the petitioner and Mr. D. K. Upadhyay, learned Chief Standing Counsel for the opposite parties.
3. Learned Counsel for the petitioner submits that on 11.2.1994, petitioner was allotted house No. M.G.5, Sector C, Aliganj Colony, Lucknow on account of the petitioner being a Journalist with the Vishwadoot weekly. Subsequently, the petitioner joined Urdu Daily Jadeed Amal and he continued to be in the occupation of the aforesaid accommodation.
4. The petitioner who is a Journalist was granted accreditation. Subsequently, it was cancelled and the order of cancellation was challenged by the petitioner by a filing a writ petition in this Court, which was numbered as Writ Petition No. 4729 (MB) of 2009 and the same is receiving the attention of this Court. Thereafter, proceedings for cancellation of house so allotted were initiated. In this regard, a show notice was issued to the petitioner on 2.1.2010 asking him as to why his

allotment of the house in question be not cancelled, to which no reply was tendered, but certain clarifications were sought from the Government and without clarifying the said position, the impugned cancellation order has been passed, which is impugned in the writ petition.

5. The contention of the learned Counsel for the petitioner is that as he is doing pairavi of the cases filed by Mithilesh Kumar Singh, namely, Writ Petition No. 8640 (MB) (PIL) of 2007 and Writ Petition No.9343 (MB) (PIL) of 2007, which went up to the Apex Court, the impugned proceedings have been initiated. In the aforesaid cases, the opposite parties/State Government moved an application for transferring the cases pending before this Court for hearing before the Apex Court, but the Apex court, in February, 2010, while remitting the matters to this Court, stayed the construction over the properties, which have been mentioned in the memo of writ petitions. After remittance, this Court has also not vacated the interim orders.

6. Next, he asserts that the petitioner in his own name has also preferred a Writ Petition No. 70200 (PIL) of 2009 at the Principal Seat of this Court against the then Additional Cabinet Secretary, namely, Vijay Shanker Pandey for a direction to the opposite parties for restraining him from working on any important post, within the State of Uttar Pradesh, as has been provided by the Apex Court in the case of Mrs. Neera Yadav that a person against whom vigilance enquiry is pending or ordered to be initiated should not be assigned the important matters so that he cannot exercise any influence and at the relevant time, Mr. Vijay Shanker Pandey was occupying the post of Additional Cabinet Secretary.

7. Rebutting the submissions of the learned Counsel for the petitioner, Mr. D. K. Upadhyay, who has accepted notice on behalf of the opposite parties, states that the cancellation order of allotment has been passed under Manyata Prapt Sampadako, Upasampadako tatha karyarat patrakaro ko rajya sampatti vibhag adhiniyam sarkari awaso ko avantith kiye jane Niyamavali, 1985, insofar as a show cause notice was issued on 2.1.2010, to which no reply was tendered, but the clarifications sought by the petitioner cannot be of any help to him as they do not have any bearing on the issue in question as the petitioner's accreditation has already been cancelled and he is occupying the accommodation illegally, insofar as the accommodation was allotted to him being Accredited Journalist. Since the accreditation has already been cancelled, he has no legal right to occupy the premises in question, which has been allotted to him.

8. In response to the mala fides alleged in the memo of writ petition against Mr. Vijay Shankar Pandey against whom a writ petition has been filed at Allahabad, he asserts that he is neither posted as Secretary, Estate Department nor Information Department in the State of Uttar Pradesh, but presently, he is posted as Principal Secretary, attached to the residence of Chief Minister and Secretary Administration and as such, it cannot be said that Vijay Shanker Pandey has any role for either getting the order of accreditation cancelled or cancellation of the accommodation in question.

9. Mr. D. K. Upadhyay further points out that according to the provisions of Section 3 of Uttar Pradesh Public Premises (Eviction of certain unauthorized occupants) Act, 2010, a fortnight's time will be given to the person before forcing him to evict from the accommodation. On the basis of instructions from his clients, he submits that no proceedings have been initiated against the petitioner till 30.5.2010 and as such, he may be granted one week to file counteraffidavit to the memo of writ petition.

10. Accordingly, one week is granted to the opposite parties for filing counteraffidavit and the petitioner will have three days to file rejoinderaffidavit thereafter.

11. List on 9.6.2010 alongwith the record of Writ Petition No. 4729 (MB) of 2009 before the appropriate Bench. In the meantime, affidavits may be exchanged between the parties.

12. Till the next date of listing, it is provided that the petitioner will not be evicted from House No. M.G.5, Sector C, Aliganj Colony, Lucknow, otherwise in accordance with law.