

(1994) 10 AHC CK 0055

In the Allahabad High Court

Case No : Writ Petition No. 4520 S/S of 1994

Shriram Singh and Another

APPELLANT

Vs

State of U.P.through Collector,Azamgarh and Another

RESPONDENT

Date of Decision : 21-10-1994

Acts Referred:

Lekhpals Service Rules, 1958 — Rule 21(b)

Citation : (1994) 10 AHC CK 0055

Hon'ble Judges : D.S.Sinha, J

Final Decision : Dismissed

Judgement

D. S. Sinha, J.—Heard Sri J. J. Moonir, holding brief of Sri J. A. Azmi, learned counsel for the petitioners.

2. The petitioners are Lekhpals serving at Tahsil Phoolpur in the district of Azamgarh. By the impugned order dated 17th August, 1994 they have been transferred to Tahsil Bhoodanpur. The petitioners feel aggrieved by the transfer. Hence this petition.

3. Learned counsel for the petitioners contends that the impugned order of transfer has been passed in contravention of subrule (b) of Rule 21 of the Lekhpals' Service Rules, 1958 (hereinafter called the Rules) inasmuch as Tahsil Phoolpur is under operation for consolidation of holdings and the transfer of the lekhpal from the area where the consolidation operations are on cannot be effected without consulting the Records or Settlement Officer or the Settlement Officer of Consolidation.

4. Subrule (b) of Rule 21 of the Rules provides that when any tract is under survey, record or settlement operation or under the operations for consolidation of holdings, the transfer of a Lekhpal outside the area under the aforesaid operation, shall not be made by the Collector or the Assistant Collector without consulting the Records or Settlement Officer or the Settlement Officer of Consolidation, as the case may be.

5. It is to be noticed that before the provision of subrule (b) of Rule 21 of the Rules can be invoked, it has to be demonstrated that the area is under survey, records or settlement and the transfer of a Lekhpal outside the area has been ordered without the consultation envisaged by the subrule.

6. In the instant petition, there is no factual foundation to sustain the plea that the Tahsil Phoolpur is under the consolidation operation. Likewise^ there is no plea that before passing the impugned order of transfer requisite consultation was not made by the authority concerned. It is no doubt true that in paragraph 5 of the writ petition there is a suggestion that currently the area, where the petitioner is posted, is under consolidation operation. There is no material to sustain the plea.

7. Thus, the court is clearly of the opinion that the plea of the petitioner regarding the contravention of the provisions of subrule (bj) of Rule 21 of the Rules cannot be sustained.

8. In the result, the petition fails and is hereby dismissed summarily.

Petition dismissed.