
(2019) 03 UK CK 0042

In the Uttarakhand High Court

Case No : Writ Petition No. 3694 Of 2018 (M Of S)

Shyam Lal And Another

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 08-03-2019

Acts Referred:

Constitution Of India, 1950 — Article 14

Citation : (2019) 03 UK CK 0042

Hon'ble Judges : Sharad Kumar Sharma, J

Bench : Single Bench

Advocate : Pradeep Chamyal, Anurag Bisaria, Shobhit Saharia

Final Decision : Disposed Off

Judgement

Sharad Kumar Sharma, J

1. The petitioners are the land losers and displaced persons as their land was acquired for the purposes of Tehri Dam Project by the respondent No.4. The controversy pertaining to their entitlement for the benefit of the rehabilitation under the Scheme framed as per the directives of the Hon'ble Apex Court came for consideration before this Court in Writ Petition filed by the petitioners, being Writ Petition No 2611 of 2016 (M/S, Shayam Lal and others Vs. State of Uttarakhand and others, which was disposed of by the Coordinate Bench of this Court vide its judgment dated 07.01.2017 with a direction to the Rehabilitation Directorate to take decision on the pending application of the petitioners pertaining to the entitlement of the petitioners for the extension of the benefit under the Rehabilitation Scheme formulated by the respondent.

2. The Directorate, vide its decision No. 185 dated 22nd March, 2017, while considering the representation No. 9 of 2017 of the petitioners, had held that the petitioners would be entitled for the benefit of the rehabilitation as provided under the Rehabilitation Policy and, consequently, his representation was allowed and it was also held that the petitioners would be entitled for the benefit

independently under the scheme since being displaced person. Despite of the said decision being taken, when the petitioners were not rehabilitated as per the scheme in force, he has filed the present Writ Petition for the following reliefs :-

"i. Issue a writ, order or direction in the nature of the mandamus commanding the respondents to give rehabilitation benefits to the petitioners according to the decision dated 22/03/2017 passed by the Director Rehabilitation New Tehri, within some stipulated time period.

ii. Issue a writ, order or direction in the nature of the mandamus commanding the respondents to conclude the rehabilitation process within stipulated time as expeditiously as possible in the light of the decision taken by the Director Rehabilitation New Tehri dated 22/03/2017.

iii. Issue a writ, order or direction in the nature of mandamus commanding the respondents to decide the representation dated 03/08/2018 of the petitioners within some stipulated time period.

iv. Issue any other writ, order or direction, as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.

v. Award the cost of the writ petition."

3. This Court has initially invited counter affidavit from the respondents and in the counter affidavit, the respondents in principal does not deny the eligibility and entitlement of the petitioners for the grant of rehabilitation benefit as decided by the Rehabilitation Directorate vide its decision dated 22nd March, 2017. The only difficulty which is being posed by the respondent No. 2, who is authority to enforce the decision dated 22.03.2017 is to the effect pertaining to the availability of agricultural plots for allotment of the displaced persons. Shortage of the plots or there may be more claimants as compared to plots available with them or the persons to be rehabilitated as against the land / plots available with the respondent No. 2, at least, the petitioners and such other persons who had been otherwise held out by Rehabilitated Directorate to be eligible and entitled for the rehabilitation benefits, they cannot be deprived of their rights merely because of the fact that the State is unable to provide the land to them, because if this is to be taken as to be reason to deprive the petitioners of the benefit of rehabilitation, who has been otherwise held eligible, it would violate Article 14 of the Constitution of India and there could be a possibility of allotting the plots to the persons as per their choice.

4. Considering the aforesaid facts since it is not disputed that the petitioner is entitled to be rehabilitated in pursuance to the order dated 22.03.2017 of respondent No. 4, thus a writ of mandamus is issued to respondent No. 2 to ensure the compliance of the decision of Rehabilitation Directorate and extend the benefit to which he is entitled in pursuance to the order dated 22nd March, 2017 of respondent No.4. The entire exercise is directed to be completed by the respondent No. 2 within a period of two months from the date of service of

certified copy of this judgment.

5. Subject to the above observations, the Writ Petition stands disposed of.

6. However, there would be no order as to costs.