

(2011) 07 UK CK 0109
In the Uttarakhand High Court
Case No : Special Appeal No. 142 of 2011

Sri Viswaprakash

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 21-07-2011

Acts Referred:

Citation : (2011) 07 UK CK 0109

Hon'ble Judges : Barin Ghosh, C.J.;V.K. Bist, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Barin Ghosh, C.J.—In a writ petition, filed by the Appellant, he contended that convening of a requisition meeting on 25th June, 2011 is illegal in the manner the same has been convened. It was contended that the law, dealing with the method, directs furnishing of a requisition alongwith the notice, which was not given in the instant case. In as much as the notice itself suggests that the same is accompanied by the requisition for the meeting, Appellant contended that a look at the postal packet, under which the notice was sent, would demonstrate that the same could not accompany the requisition. That is a question of fact, which could not be gone in the writ jurisdiction.

2. The second point urged was that the law governing the field requires 15 clear days notice and, in the instant case, Branch Post Master, Deusi, Pauri Garhwal has certified that the postal packet containing the notice was delivered to the postal authority on 6th June, 2011 and the same was served upon the Appellant on 13th June, 2011 and, in as much as the requisition meeting was convened on 25th June, 2011, there was less than 15 clear days notice. According to the said certificate of the Post Office, it is clear that the notice was tendered to the postal authority on 6th June, 2011. If the same was tendered on 6th June, 2011, why the postal authority delivered the same on 13th June, 2011 and not on 7th June, 2011 or 8th June, 2011 or 9th June, 2011, has not been attempted to be justified in the certificate. The law governing the field, while specifies that there

shall be 15 clear days notice, mandates that the notice must be sent through registered post. The Rules, governing registered post, does not specify any particular date, within which the postal authority is obliged to deliver the postal packet to the addressee. The lawmakers, while making it obligatory to send notices through registered post, was aware that such a notice may be tendered to the addressee in one day or in two days or in three days depending upon the convenience of the postal authority. At the same time, the lawmakers made it compulsory that the notice must be of 15 clear days. The said state of affair clearly demonstrates that the lawmakers proceeded on the basis that the Postal Department will be the agent of the addressee and not of the person sending the notice.

3. In the circumstances, it must be deemed that the notice was tendered to the Appellant on 6th June, 2011 or within a reasonable time therefrom, at least, 15 days before the requisition meeting was convened. Almost on such grounds, the writ petition has been dismissed.

4. For the reasons as above, we find no merit in the appeal and, accordingly, refuse to admit the same.