
(2011) 04 AHC CK 0414
In the Allahabad High Court
Case No : Writ B. No. 22685 of 2011

Tejendra Pal Singh

APPELLANT

Vs

Consolidation Commissioner and Others

RESPONDENT

Date of Decision : 20-04-2011

Acts Referred:

Citation : (2011) 6 ADJ 138 : (2011) 4 AWC 4165 : (2011) 113 RD 716

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Amreshwar Pratap Sahi, J.—Heard Sri M.N. Singh, learned Counsel for the Petitioner and Sri A.K. Singh, learned Counsel for the Respondent Nos. 3 to 5.

2. This petition has been filed praying for quashing of the order dated 28th March, 2011, annexure-10 to the writ petition. However, at the time of arguments, the prayer has been modified to the extent that the revision itself be transferred to the Deputy Director of Consolidation concerned for decision and in that event, the Petitioner would pray for a relief only to that extent.

3. A supplementary affidavit has been filed stating therein that the Director of Consolidation has delegated powers to the Deputy Director of Consolidation, Farrukhabad to hear and decide the matters u/s 48 of the Act pertaining to District Etah as well.

4. This matter had been adjourned to be taken up after lunch calling upon the learned Standing Counsel to verify the aforesaid averments contained in the supplementary affidavit. Learned Standing Counsel has produced a fax copy of the list which indicates at Serial No. 10 that the Deputy Director of Consolidation, Farrukhabad has been given the jurisdiction to decide revisions of the Districts of Farrukhabad, Kannauj and Etah.

5. The contention raised by Sri M.N. Singh is that the order in appeal had been

passed after directions were issued vide judgment dated 30th November, 2010 in Writ Petition No. 69668 of 2010. Learned Counsel submits that the Respondent No. 2 was personally interested in the matter and it was at his instance that the jurisdiction of the Settlement Officer Consolidation was withdrawn that came to be stayed by this Court in Writ Petition No. 8012 of 2011 vide order dated 11.2.2011. The appeal was ultimately dismissed in favour of the Petitioner against which the Respondent has filed a revision before the Respondent No. 2

6. Learned Counsel submits that undue influence exercised by the Respondent No. 2 had resulted in harassment to the Petitioner and, therefore, the revision filed by other side, in which an interim order has been granted, is to be decided by the Respondent No. 2 himself. This would attract the Rule of bias as the Petitioner would be at the mercy of the said Respondent who had stage managed the withdrawal of the jurisdiction at the S.O.C. level. Learned Counsel submits that the Respondent No. 2 is prejudiced against the Petitioner and, therefore, the revision be transferred to some other Deputy Director of Consolidation to decide the matter in accordance with law.

7. Sri A.K. Aditya, learned Counsel for the Respondent Nos. 3 to 5 contends that the Petitioner is a resident of Mahamaya Nagar and the matter may be sent to the Deputy Director of Consolidation Mahamaya Nagar itself for decision in case this Court comes to the conclusion that the revision deserves to be transferred.

8. Having heard learned Counsel for the parties and keeping in view the notification issued by the Consolidation Commissioner delegating the powers on the Deputy Director of Consolidation, Farrukhabad, all matters relating to Etah of the said jurisdiction have to be decided by him. Sri A.K. Aditya submits that the Deputy Director of Consolidation Farrukhabad is not attending the Camp at Etah for almost eight months and, therefore, the matter is likely to be delayed.

9. The facts as narrated do raise a reasonable apprehension that justice should not only be done but it should also be seen to have been done. The background in which the appeal was decided with allegations against Respondent No. 2, it would not be justified for the said Respondent to proceed with the matter. The Principles of bias have been cataloged in the case of Union of India (UOI) and Others Vs. B.N. Jha, and in the case of Madhya Pradesh Special Police Establishment Vs. State of Madhya Pradesh and Others,

10. In view of the aforesaid submissions, the Respondent No. 2 is directed to forthwith transmit the entire records of Revision No. 24 of 2011 pending before him, before the Deputy Director of Consolidation, Farrukhabad, who shall now proceed to decide the revision as expeditiously as possible preferably within a period of three months from the date of presentation of a certified copy of this order before him.

11. With the aforesaid observations, the writ petition is disposed of.

12. A copy of this order shall be served on the Deputy Director of Consolidation,

Farrukhabad at Camp Etah to proceed to comply with the aforesaid directions as observed hereinabove.