

(2000) 09 SC CK 0081

In the Supreme Court Of India

Case No : Civil Appeal No. 5064 of 2000

Vice Chairman, Kanpur Development Authority and Another	APPELLANT
Vs	
Girja Shankar Misra and Others	RESPONDENT

Date of Decision : 15-09-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 3 AWC 173 : (2000) 2 JT 439 Supp

Hon'ble Judges : V. N. Khare, J;M. B. Shah, J

Bench : Division Bench

Final Decision : Allowed

Judgement

V.N. Khare and M.B. Shah, JJ.—Leave granted.

2. Respondent No. 1 herein was working in the Kanpur Development Authority on the post of Chief Accounts Officer. By the order dated September 22, 1999, he was transferred to Agra Development Authority along with the post. The respondent challenged the aforesaid transfer order by means of a petition under Article 226 of the Constitution of India. The said writ petition was dismissed by a Bench of the High Court. The respondent subsequently moved a review petition. While rejecting the review petition, the High Court stayed the transfer of the respondent till his representation is decided by the State Government. It is against the said part of the order, the Appellant is in appeal before us.

3. Learned Counsel urged that once the writ petition as well as the review petition have been dismissed by the High Court, the High Court ought not to have granted relief of stay of transfer. The argument is well substantiated. As seen above, the High Court having not found any merit in the petition dismissed the same and subsequently the review petition was also dismissed. Under such circumstances, it was erroneous exercise of power by the High Court when it stayed the order of transfer. Such an order was totally uncalled for. Under such circumstances, we set aside the order to the extent it stayed the transfer of the

respondent.

4. The appeal is allowed. There shall be no order as to costs. However, this order will not preclude the State Government from considering the representation of the respondent.