**(2016) 03 AHC CK 0041**

**In the Allahabad High Court**

**Case No :** Public Interest Litigation (PIL) No. 53556 of 2015

Yashpal Singh APPELLANT

Vs

State of U.P. and 3 others RESPONDENT

**Date of Decision :** 01-03-2016

**Acts Referred:**

Uttar Pradesh Revenue Code, 2006 — Section 11(5), 12, 13

**Citation :** (2016) 4 ADJ 254 : (2016) 3 AllWC 2893 : (2016) 2 UPLBEC 1058

**Hon'ble Judges :** Dr. Dhananjaya Yeshwant Chandrachud, C.J.;Yashwant Varma, J.

**Bench :** Division Bench

**Advocate :** C.S.C, Prasoon Tomar, Advocate, for the Respondent

**Final Decision :** Disposed Off

## Judgement

1. The provisions contained in the newly enforced Uttar Pradesh Revenue Code 2006 (Code) empower the State Government, at the time of making an appointment or at any time subsequent thereto to designate Additional Commissioners, Additional Collectors and Assistant Collectors, as officers who would perform only judicial duties and would be allotted judicial business. Thereupon these officers are to exercise such powers and discharge such duties in such cases or classes of cases as the State Government may direct. A provision in that regard has been made in sub section (5) of Section 11 (for Additional Commissioners), Section 12 (for Additional Collectors) and sub section (6) of Section 13 (for Assistant Collectors).

2. The issue which was raised in the public interest litigation was that as a result of the abstention from work by the District Revenue Bar Association, Bijnor repeatedly, the work of the Revenue Court was suffering. Notice was issued to the President of the District Revenue Bar Association, Bijnor on 17 September 2015. On 12 October 2015, the District Judge was directed to submit a report on the grievance which was raised in the writ petition. In pursuance of the directions of this Court, the District Judge submitted a report inter alia highlighting that the

 

Revenue Bar Association was abstaining from work for trifling reasons which was noticed in the order dated 30 October 2015 in the following terms:

"The District Judge, Bijnor has submitted a report dated 27 October 2015. The District Judge has noted the statement which was made before him by the District Magistrate/Settlement Officer Consolidation that lawyers had proceeded on strike for trifling reasons such as excessive rain, excessive warm weather, power supply, death of a farmer and like reasons and the members of the Bar pressurised the Presiding Officer to desist from taking up judicial work failing which the officer was boycotted. From 1 October 2014 to 30 September 2015, it has been reported that out of 242 working days in the Consolidation Courts, revenue lawyers abstained from work on 196 days. It has also been submitted that in the Court of the ADM, Bijnor between 1 August 2014 to 15 April 2015, the District Revenue Bar Association, Bijnor had given about 144 strike resolutions. As a result, despite all efforts to ensure work, the disposal of cases could not be taken up at the expected rate."

3. The next aspect which was highlighted in the report of the District Judge was that the Presiding Officers of the Revenue Courts were drawn from the executive. On various occasions, they are called upon to perform administrative duties including Panchayat Elections, as a result of which, work on the judicial side had suffered. Taking note of this grievance, this Court in its order dated 30 October 2015 observed as follows:

"...The vast proportion of disputes before the Revenue Courts relate to agricultural land and property. It has been reported that the Presiding Officers of the Revenue Courts do not observe regular and disciplined sittings in the Revenue Courts and because of their administrative duties and law and order responsibilities, they do not get much time to devote to judicial functioning. The report of the District Judge suggests that one option is to create a separate cadre of revenue officers, who are devoted to only judicial functioning in the Revenue Courts or to appoint one or two Executive Officers in every district who can sit in the Court throughout the day and perform judicial duties."

The Chairman of the Board was directed to file a personal affidavit to explain the steps to be taken to remedy the situation. Subsequently, by an order dated 4 December 2015, this Court noted that as many as 6,03,916 revenue cases were pending before the Revenue Courts in the State which was disclosed in the affidavit filed by the Chairman of the Board of Revenue. The affidavit detailed the various steps that were taken to ensure the expeditious disposal of cases before the Revenue Courts including providing of a computerised court management system to enable Advocates and litigants to obtain knowledge of the fresh and pending cases, the listing of cases and passing of orders. A proposal was also submitted by the Board of Revenue to the State Government for the creation of posts of Tehsildar (Judicial), Sub Divisional Officer (Judicial), Additional District Magistrate (Judicial) and Additional Commissioner (Judicial) for speedy disposal of cases. This was to ensure that judicial work under revenue legislation is performed only by officers specifically appointed for that purpose drawn from a specified cadre. In the order of this Court dated 4 December 2015, the State Government was directed to take an expeditious decision on the proposal of the Board of Revenue particularly having regard to the fact that the affidavit filed before the Court indicates that there has been a marked increase in the revenue cases being filed in the State due to the rapid growth of population, partition in joint families, transfers of land through sale and by other means and increase in economic activities. Emphasising the need to create a separate cadre, this Court in its order observed as follows:

"Having regard to this background, in our view, it would be necessary for the State Government to act in the matter to ensure that a cadre of officers, exclusively to the resolution of revenue cases, is created along the lines as suggested by the Board of Revenue. Moreover, due and appropriate attention should be bestowed on the need to ensure that persons so appointed have sufficient knowledge of law so as to facilitate the disposal of revenue cases. Since this proposal is pending consideration before the State Government, we direct that a decision in that regard be taken within a period of two months from today."

5. The President of the District Revenue Bar Association had filed an affidavit stating that the Association had passed a resolution on 19 October 2015 in which it was stated that strikes by the Bar would be prohibited and on 21 November 2015, a decision was taken to act in letter and spirit and in accordance with the decisions of the Supreme Court in that regard. The affidavit also highlighted the problems which are being faced by the litigants and members of the Bar appearing before the Revenue Courts including (i) alleged corruption of revenue authorities; (ii) lack of proper infrastructure; (iii) absence of proper timing of the sittings of the Revenue Courts; (iv) absence of legal knowledge on the part of personnel manning the Courts; and (v) the inability of Presiding Officers to perform judicial work since most of the time is spent on administrative duties.

6. This Court directed the Chairman of the Board of Revenue to look into the matter and to take an appropriate administrative decision to obviate the grievances of the members of the Bar. In pursuance of the order of this Court dated 4 December 2015, an affidavit has been filed by the Registrar of the Board of Revenue. The affidavit states that 6,01,543 revenue cases were pending as on 1 January 2015. 14,63,886 new revenue cases were instituted between 1 January 2015 and 31 December 2015. Until 31 December 2015, 14,92,833 revenue cases have been disposed of. In consequence, 5,76,122 revenue cases are still pending for disposal. These figures indicate to the Court that there has been progress in the matter of streamlining the work of revenue cases and the rates of disposal have increased. However much still remains to be achieved since pendency of 5.76 lacs is itself a substantial figure. As regards, the proposal for creation of a cadre of officers exclusively for the resolution of revenue cases, it has been stated that the Department of Revenue sent the proposal to the Law Department and the Department of Personnel for their consent. It has been

 

stated that the departments concerned have furnished their consent to the proposal. Moreover, it has been stated that in view of the provisions of the Uttar Pradesh Revenue Code 2006, once officers are designated exclusively for judicial work, there would be no shortage of presiding officers.

7. We are of the view that the State Government must immediately take steps under the enabling provisions of sub section (5) of Section 11 and Section 12 and sub section (6) of Section 13. This would ensure that judicial work is assigned to officers who would only perform judicial duties on the revenue side and would be exempted from administrative functions. Judicial work requires a frame of mind, qualification and experience which are quite different from the discharge of administrative duties and it is but necessary that the provisions which have been contained in the newly enforced provisions of the Code are implemented in the State expeditiously. As regards the proposal for the creation of a cadre, it has been stated that the Finance Department to whom a proposal was submitted for consent had raised certain queries which has been responded to on 22 February 2016 by the Board of Revenue. After the consent of the Finance Department, the proposal would be placed before the Cabinet after obtaining the consent of the Law Department and the Department of Personnel. Since the proposal is now pending before the Government and the Government has indicated its intention to finalise the matter expeditiously, we direct that a final decision thereon should be taken within a period of six months from the receipt of a certified copy of this order.

8. In view of the enabling provisions which are contained in the provisions of the Code, and since the State Government has initiated steps, we expect that a decision be taken thereon expeditiously within a period of six months. Insofar as the strike by the members of the Revenue Bar Association, Bijnor is concerned, we take on record the undertaking and assurances which have been tendered before this Court in terms of the resolution which has been passed by the Bar. The members of the Bar are expected to display a sense of responsibility particularly having regard to the judgments of the Supreme Court laying down the need for restraint in the striking of work by the members of the legal profession. Nothing further would survive in the public interest litigation at this stage.

9. The petition is accordingly disposed of. There shall be no order as to costs.

 