

Uttarakhand High Court

Prem Singh vs State Of Uttarakhand & Others on 11 January, 2019

Reserved on: 22.10.2018

Decided on: 11.01.2019

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (M/S) No. 3080 of 2018

Prem Singh

.....Petitioner

Versus

State of Uttarakhand & others

...Respondents

Present:- Mr. Siddhartha Sah, Advocate for the petitioner.

Mr. K.N. Joshi, Deputy Advocate General for the State/respondent nos. 1 to 4.

Mr. Atul Bahuguna, Central Government Standing Counsel for the Union of India/respondent no.5.

Hon'ble Sudhanshu Dhulia, J.

One thing must also be stated here at the very outset. In paragraph 54 of the present writ petition, the petitioner states that this writ petition has been filed on behalf of all the villagers of Village Copa, in a representative capacity. Under which provision of law such a writ petition has been filed has not been stated. Strictly speaking though provisions of Order 1 Rule 8 CPC will not be attracted, yet principles contained therein need to be broadly followed. There is no leave sought from this Court. The concerned Gram Sabha has not been made a party. This is definitely not a Public Interest Litigation. All these questions would arise, but as earlier a petition filed by the petitioner was entertained by this Court, I refrain from going on these aspects.

2. This is a writ petition filed by the petitioner seeking the quashing of the order dated 13.04.2018 passed by the Principal Secretary, Irrigation, Government of Uttarakhand on directions of this Court in an earlier writ petition filed by the petitioner, being WPMS No.2520 of 2013. The directions in the earlier writ petition filed by the petitioner were to the Principal Secretary, Irrigation to decide the representation of the petitioner, which has now been done vide order dated 13.04.2018. This order is presently being challenged by the petitioner in the present writ petition. Apart from the said challenge, the petitioner seeks a direction in the nature of mandamus which is as follows:-

"(ii). Issue a writ, order or direction in the nature of mandamus commanding the respondents to allot/transfer the balance 510.15 acres to the displaced persons of Haripura Reservoir in revenue land & in the alternative to pay compensation of said land at the present market value of the land."

3. The case of the petitioner is that between 1962- 65 in District Nainital (at the relevant time the present District Udham Singh Nagar was the part of District Nainital), 1203.98 acres of agricultural land which was in Gram Sabha Copa, Vikas Khand Gadarpur, District Udham Singh Nagar was acquired for the purpose of construction of Haripura reservoir. He further states that agriculturists

(he does not name how many) were not interested in taking any compensation for the land, in terms of money, but instead demanded that they be given an alternative land. They were also assured that in place of the monetary compensation, they will be given agricultural land. According to the petitioner, this promise was made to him by none other than the then Prime Minister of India. However, there is no document or evidence placed by the petitioner to strengthen this fact, except a bald averment.

4. The case of the petitioner further was that out of the total land of 1203.98 acres, 685 acres of land was actually allotted to the villagers where they are presently doing their cultivation. However, even on this land apart from their cultivation rights, they have no other rights as the land has not been formally transferred from Forest Department to the Revenue Department. He further states that in any case 510.15 acres of land still remains to be allotted to them. On these averments when the earlier writ petition being WPMS No.2520 of 2013 was filed by the petitioner, a learned Single Judge of this Court vide order dated 05.09.2017 disposed of the matter by passing the following order:-

"Mr. Siddharth Sah, Advocate for the petitioner. Mr. B.S. Parihar, Standing Counsel for the State. The petitioner has already made a representation seeking redressal of his grievance. The case of the petitioner, as per the reply has been favourably considered vide letter dated 28.05.2013. Accordingly, the writ petition is disposed of with the direction to the Secretary, Irrigation, State of Uttarakhand is to decide the representation made by the petitioner in conjunction with letter dated 28.05.2013, as mentioned in the counter affidavit filed by respondent no.3 within a period of three months from today, by passing speaking/detailed order."

5. Pursuant to the aforesaid order, the impugned order dated 13.04.2018 has been passed by the Principal Secretary, Irrigation, Government of Uttarakhand wherein he has said that there are principally two prayers of the petitioner. Firstly, 685 acres of land of Gularbhoj forest area, which was earlier in the forest area of Gadarpur was given to the petitioner and similarly situated persons and where they are doing their cultivation and which may be transferred to the Revenue Department, as contended by the petitioner. On this a meeting was held on 04.04.2018, under the chairmanship of Principal Secretary, Irrigation and other concerned officers and pursuant to this, the Principal Secretary states in his order that a proposal from the Irrigation Department has been sent to the Forest Department and is under consideration and orders will be passed in accordance with law.

6. Regarding the second contention, it has been said that total land which was acquired at the relevant time for the construction of the dam, allotment has already been done and total 693.83 acres of land has been given to the oustees. Out of 249 agriculturists, there were 93 agriculturists who were having less than 19 bigas of land who have been fully compensated. There were 120 agriculturists who were having more than 19 bigas land have been partially compensated and there were 36 agriculturists who were unauthorizedly occupying the State land and they have not been given any land in compensation of the land acquired. Impugned order further states that regarding acquisition and allotment of land, proceedings were initiated in accordance with law and all formalities completed, and therefore the prayer of the petitioner for allotment of 510.15 acres cannot

be granted.

7. It is a well considered order passed by the Principal Secretary, Irrigation, Government of Uttarakhand on the directions of this Court. Therefore, in my considered view, the petitioner cannot be granted any relief as is being sought in the present writ petition.

8. It must also be noted that it is a highly belated writ petition, filed before this Court after a period of more than 50 years. In my humble opinion, it could well have been rejected on the ground of laches and delay. As of now, the orders of the learned Single Judge have already been complied, by a reasoned order, which in my opinion is the sufficient compliance. Nothing further needs to be done in the matter.

9. The writ petition fails and it is hereby dismissed.

(Sudhanshu Dhulia, J.) 11.01.2019 Ankit/