

Court No. - 6

Case :- WRIT - C No. - 3909 of 2023

Petitioner :- Deep Chandra Yadav

Respondent :- State Of Uttar Pradesh And Another

Counsel for Petitioner :- Aditya Kumar Yadav

Counsel for Respondent :- C.S.C.

Hon'ble J.J. Munir,J.

In compliance with the order dated 16.02.2023, Shubham Srivastava, Sub Divisional Officer, Phulpur District Prayagraj has submitted a report dated 20.02.2023 that far from meets the eye. The relevant part of the report is extracted below:

"3. तहसीलदार फूलपुर द्वारा अपनी जांच आख्या दिनांक 09.09.2014 को प्रस्तुत की गई, जिसपर पक्षों को नोटिस जारी किये जाने का आदेश पारित किया गया। तत्पश्चात वादी द्वारा अपने साक्ष्य दाखिल किये गये, जिसपर आपत्ति हेतु प्रतिवादी को न्यायहित में कई बार अवसर दिया जा चुका है परन्तु उनके द्वारा आजतक कोई भी आपत्ति दाखिल नहीं की गई।

4. यह भी अवगत कराना है कि वाद में नियत कुछ तारीखों पर प्रशासनिक व्यस्तता /अधिवक्तागणों के न्यायिक कार्य से विरत रहने एवं कोविड-19 के दृष्टिगत सुनवाई की जा सकी।"

The report aforesaid shows that the case has been adjourned admittedly on a number of occasions in order to afford opportunity to the opposite party to file a reply, which he has not. What is required under the law is provision of opportunity to file a reply or a written statement. It is not the requirement of the law that an opposite party to a proceedings, who despite opportunity, does not come up with a reply is to be given a premium on his own wrong by adjourning proceedings indefinitely at the applicant's cost. This is what appears to have been done in this matter.

In addition, paragraph no. 4 of the report submitted by the Sub-Divisional Officer shows that on some dates, he has not effectively heard the matter because of engagement with the administrative work or on account of Members of the Bar abstaining from judicial work. There is in the report, an added reason mentioned on account of the CoVid-19 pandemic. So far as the last reason is concerned, that is

since long not in existence. So far as the adjournments of the case on account of administrative work is concerned, this Court makes it clear that no Administrative Officer, who discharges judicial duties involving rights of citizens can undertake administrative work at the cost of his judicial obligations. This Court makes it bold to say that if the Administrative Officers, who are functioning under the U.P. Revenue Code, 2006 dealing with the rights of the citizens find it difficult to spare time for judicial work, it is high time that the State Government should think of entrusting judicial functions under the U.P. Revenue Code to a separate cadre of judicial officers.

Be that as it may, so long as the present system or jurisdiction with the Administrative Officers relating to judicial matters continues, no administrative work ought to be done curtailing on judicial time. Likewise, adjourning the case on a resolution by the Bar asking their member to abstain from judicial work is direct violation of the judgments of Supreme Court in **Ex-Capt. Harish Uppal v. Union of India and another**, (2003) 2 SCC 45, **Common Cause, a registered society and others v. Union of India and others**, (2006) 9 SCC 295, **Krishnakant Tamrakar v. State of Madhya Pradesh**, (2018) 17 SCC 27 and **District Bar Association, Dehradun through its Secretary v. Ishwar Shandilya and others**, (2020) 17 SCC 67,

Abstaining from judicial work by Members of the Bar is patently unlawful and is to be ignored. If members of the Bar abstain from discharging their professional duties, the Court or the Authorities concerned are required to proceed as if party represented by the learned Counsel is absent and pass orders, in accordance with law.

Bearing all this in mind, let the Collector, Prayagraj as well as the Sub divisional Officer, Phulpur, District Prayagraj submit a further report in the matter, within a week.

Lay as fresh on **02.03.2023**.

Let this order be communicated to the Collector, Prayagraj and Sub Divisional Officer, Phulpur, District Prayagraj through Collector Prayagraj by the Registrar (Compliance) **within 24 hours.**

Let a copy of this order be also communicated by the Registrar (Compliance) to the Additional Chief Secretary/Principal Secretary Department of Revenue, Government of U.P. for the purpose of brought notice to the State Government **within 24 hours.**

Order Date :- 23.2.2023

Deepak