

Court No. - 53

Case :- WRIT - C No. - 38509 of 2023

Petitioner :- Shiv Narayan Tiwari

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Rajesh Kumar Dubey, Manoj Kumar Maurya

Counsel for Respondent :- C.S.C

Hon'ble Kshitij Shailendra, J.

1. Pursuant to the previous order of this Court, learned Additional Chief Standing Counsel has placed instructions furnished by Sub-Divisional Officer, Deoria Sadar, which are taken on record.
2. On the directions of this Court, a complete set of instructions has been served upon the learned counsel for the petitioner in Court today.
3. This petition has been filed seeking a writ of mandamus commanding the Collector, District Deoria to inspect the file of Case No.8403 of 2022 (Computerized Case No. T202205200108403) (Shiv Narayan Vs. State, under Section 31/32 of U.P. Revenue Code, 2006 thoroughly in which two final orders on the same file were passed on 17.08.2023 and take appropriate action against the persons responsible for the same.
4. The instructions that have been furnished to this Court reveal that the stand of the Sub-Divisional Officer, namely, Sri Yogesh Kumar Gaur is that two different orders were passed on 17.08.2023 in the same case, however, one order which could not be signed was erroneously uploaded on the website of Board of Revenue, i.e. R.C.M.S. portal but, later on, the same was deleted from the website and a different order of the same date was released.
5. Both the orders dated 17.08.2023 have been annexed to the petition. One is photostat copy obtained from the concerned website which obviously could not contain signature of the Sub-Divisional Officer concerned and the other is a certified copy of the order dated 17.08.2023. Both the said orders were passed in the same case for correction of entries and on perusal of the same, the Court finds that they are exactly in contrast to each other, that is to say that in one of the orders, the claim of the petitioner Shiv Narayan Tiwari has been accepted and direction for correction of entries has been issued, whereas in the second order of the same date, the petitioner's case has been dismissed on merits recording

finding that there is no justification to correct entries.

6. The instructions are also to the effect that an inquiry has been set up in the matter and Additional District Magistrate (Finance and Revenue) has been designated as the Inquiry Officer.

7. The Court has perused the Annexure No.4 attached to the instructions, according to which, the Additional District Magistrate (Finance and Revenue) has been designated as an Inquiry Officer to issue a charge-sheet and conduct inquiry, however, the alleged culprits of the aforesaid discrepancy have been described as Sri Chandra Bhan Chaurasiya (Reader) and Sri Harendra Pal (Revenue Ahalmad) working in the office of Sub-Divisional Officer. There is no mention in the said document that any inquiry has been set up against officer concerned, i.e. Sri Yogesh Kumar Gaur, Sub-Divisional Officer.

8. This Court can take judicial notice of the fact that no order can be uploaded on or deleted from the concerned website without directions or knowledge of the officer concerned. Further, neither a Reader of the Court nor Revenue Ahalmad can have any role in pronouncing two different orders on merits in the same case. At the most, their duties/ responsibilities can be confined to ministerial/ administrative work but certainly not to exercise judicial/ quasi judicial function.

9. The nature of two orders filed along with the writ petition is sufficient to convince this Court that a detailed inquiry is required to be conducted in the matter against Sri Yogesh Kumar Gaur, Sub-Divisional Officer and merely because an inquiry has been set up against the Reader and Revenue Ahalmad and the Additional District Magistrate (Finance and Revenue) has been nominated as the Inquiry Officer, the same would not be sufficient to subserve the ends of justice and if the officer is found involved in passing two different orders on merits in the same case, the matter becomes very serious requiring stern disciplinary action against the officer.

10. In view of the above, **following directions are issued:-**

(i) The Collector, Deoria shall call upon Sri Yogesh Kumar Gaur, who was posted as Sub-Divisional Officer, Deoria on 17.08.2023, to submit his written defence before the Collector **on or before 31.01.2024.**

(ii) The Collector shall also call upon the Additional District

Magistrate (Finance and Revenue) to submit his report in the matter **within the same time.**

(iii) The Collector, on the basis of aforesaid defence and report, shall prepare his own independent report **by the end of February, 2024** and shall forward the same to the Principal Secretary (Revenue), U.P. Government, Lucknow.

(iv) The Principal Secretary (Revenue), U.P. Government, Lucknow shall set up a high level inquiry in the matter and shall ensure that said inquiry is completed strictly in accordance with law, after providing full opportunity of hearing to the persons concerned, **by the end of May, 2024.**

(v) The copy of the inquiry report shall be placed before this Court along with an affidavit of Collector, Deoria on the next date fixed.

(vi) The Registrar (Compliance) of this Court shall immediately send a copy of this order to the Collector/ District Magistrate, Deoria.

11. Put up as fresh before appropriate Bench on 01.07.2024.

Order Date :- 5.1.2024

AKShukla/-