

Ram Krishna Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Mar-20-1986

Reported in : AIR1987All106

Judge : D.N. Jha and ;D.S. Bajpai, JJ.

Acts : [Constitution of India](#) - Article 14

Appeal No. : Writ Petn. No. 1530 of 1986

Appellant : Ram Krishna

Respondent : State of U.P. and ors.

Advocate for Pet/Ap. : Robin Mitra, Adv.

Disposition : Petition dismissed

Judgement :

D.N. Jha, J.

1. This petition has been directed under Article 226 of the Constitution by the petitioner Ram Krishna feeling aggrieved by order dt. 9-12-1985 passed by the Government. He has also prayed for issue of a writ, order or direction in the nature of mandamus directing the opposite-parties to allow the petitioner to make payment of outstanding dues as per terms of Annexure 1, i. e., in instalment of Rs.

7,500/- per month as was fixed earlier and he continued paying without default.

2. It is an admitted case of the petitioner that excise dues to the tune of Rs. 11,13,830/- were due from the petitioner. When this amount was being realised as arrears of land revenue, it appears that the petitioner had approached the Government and some indiscreet officer of the State Government fixed an instalment of Rs. 7,500/- per month to be paid by the petitioner. The officer did not realise the consequences of fixation of this paltry amount of instalment. It appears to us that Government vide telex dt. 9th Dec. 1985 took a policy decision in view of the reports received that very little progress had been made in liquidating arrears of Government dues. It was, therefore, decided that all orders issued by Government staying recovery and fixing instalment should stand vacated with immediate effect. It was further ordered through the telex that in cases where stay had been granted by Courts, concerned departments should make special efforts to get the stay order vacated. Precaution, however, was taken to order that this aforementioned order would not be enforced in areas where concession/relaxation has been allowed as a result of natural calamity. It was further ordered by the Government that immediate action for recovery of dues be initiated. It appears that in pursuance of this Government order the petitioner was called upon to deposit the balance. This order has been attached as Annexure No. 3.

3. The contention of the learned counsel for the petitioner is that this order is violative of Article 14 inasmuch as he has not been provided with an opportunity before resending the previous order of the Government by which instalment of Rs. 7,500/- had been fixed. Much emphasis has been laid by the Counsel on the observations made by the Hon'ble Supreme Court in the decision of Smt. Maneka Gandhi v. Union of India, AIR 1978 SC 597, and he urged that the order was arbitrary and whimsical and should not be allowed to stand. He also urged that on the basis of analogy of a compromise decree the Government should have honoured its commitment and if at all it was being revised, the petitioner ought to have been provided an opportunity to put forth his case. We have given our anxious consideration to the entire facts and circumstances involved in the case and also the policy decision adopted by the Government. We have no hesitation in observing that the procedure for recovery of arrears through a certificate to the

Collector for recovery of the same as arrears of land revenue does not violate Article 14 of the Constitution. It has already been observed that some officer of the Government fixed in instalment of Rs. 7,500/- to be paid in monthly instalment by the petitioner to clear off arrears of 11 lacs and odd. It appears that such orders led to cripple the finances of the State Government and, therefore, all out efforts seem to have been thought of by the Government and a policy was adopted to cancel such orders made with respect to recovery. There appears to be nothing unreasonable in the policy decision. The Government has every right to take care with respect to operation of the economic system and to ensure that it does not result in concentration of wealth to the detriment of the common man. The order, therefore, being a policy decision does not violate any constitutional mandate. It is always open, as was previously done by the petitioner, to approach the State Government to satisfy on account of his economic condition or otherwise to fix reasonable instalment so that without impairing his economic condition he may be in a position to clear off his dues and we have no reason to doubt that Government would not consider such request. However, so far as the present writ petition is concerned, we have already observed that it does not violate any constitutional mandate, much less Article 14 of the Constitution; The case of Maneka Gandhi is entirely on different footing and it cannot be compared with the facts of the present case. In matters of recovery there has already been a Division Bench decision of this Court in *Trijugi Narain Tewari v. Gorakhpur Kshetriya Gramin Bank*, AIR 1986 AH 115. There is nothing on the record warranting to take a contrary view.

4. We find the petition devoid of merits and dismiss it accordingly.

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