

Mohd. Anwar Khan Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Jan-11-1999

Reported in : 1999(1)AWC911

Judge : D.K. Seth, J.

Acts : [Constitution of India](#) - Articles 215 and 226

Appeal No. : C.M.W.P. No. 40264 of 1998

Appellant : Mohd. Anwar Khan

Respondent : State of U.P. and Others

Advocate for Def. : S.C.

Advocate for Pet/Ap. : Gajendra Pratap, Adv.

Judgement :

D. K. Seth, J.

1. The prayer (i) made in the writ petition seeking a mandamus commanding the respondents to follow the mandamus issued by this Court In another case described therein is wholly misconceived. There cannot be a mandamus for commanding the respondents to obey the mandamus issued in another case. Mandamus is a direct order or direction issued by the Court to a person who is

bound to comply with the same. Non-compliance thereof attracts the provisions of Contempt of Courts Act or those of Article 215 of the [Constitution of India](#). There cannot be a fresh mandamus, directing a person to comply with the mandamus already issued to him. Such a concept would be contrary to the concept of issue of writ which are direct orders or directions issued to a person in the form of command. In disobedience of a command, a fresh command need not be Issued. Disobedience of a command invites consequence of disobedience not a fresh command. therefore, the prayer (i) cannot be allowed.

2. The learned counsel for the petitioner submits that the petitioner had made a representation on the ground that he is similarly situated with the petitioners in Writ PetitionNo. 8148 of 1990, since been decided on 21.7.1993 and. therefore, his case should be considered similarly in terms of the order passed in Writ Petition No. 8148 of 1990 by the Lucknow Bench of this Court.

3. After hearing Mr. V. K. Rai, learned Brief Holder and the learned counsel Gajendra Pratap, this writ petition is disposed of by directing the respondent No. 1 to consider the petitioner's representation contained in Annexure-3 in accordance with law according to his own wisdom and discretion having regard to the decision dated 21st July, 1993, passed in Writ Petition No. 8148 of 1990 by the Lucknow Bench of this Court being Annexure-1 to the writ petition, provided the petitioner is similarly situated and the principle and ratio decided therein is applicable in the petitioner's case and the petitioner is otherwise eligible and entitled to be so considered, as early as possible preferably within a period of three months from the date a copy of this order is communicated to the concerned respondent.

4. The writ petition is thus disposed of.

5. No cost.