

Tej Pal Singh Vs. State of U. P. and Others

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Court : Allahabad

Decided On : Feb-26-1999

Reported in : 1999(2)AWC1662

Judge : V. M. Sahai, J.

Acts : Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 - Sections 4A

Appeal No. : C.M.W.P. No. 8775 of 1990

Appellant : Tej Pal Singh

Respondent : State of U. P. and Others

Advocate for Def. : V. K. Rai,;S. C.

Advocate for Pet/Ap. : S. K. Singh and;V. K. Singh, Advs.

Judgement :

V. M. Sahai, J.

1. Heard Sri. S. K. Singh, learned counsel for the petitioner and Sri V. K. Rai, brief holder for the State of U. P., for the respondents.

2. The only point raised by the petitioner's counsel is that in spite of directions of the Supreme Court dated 1.12.1987 given In S.L.P. No. 3654 of 1987 that the

petitioner's ceiling area be re-determined after arriving at a finding as to whether the plots of the petitioner are irrigated and submerged under water or not, the Courts below have not adverted to the question involved in light of judgment of the Supreme Court. The petitioner moved an application on 14.2.1989 before the Prescribed Authority for spot inspection so that the plots, which are submerged under water and the plots which are sandy, may be verified. Earlier also, as stated in the writ petition, spot inspection was made by Lekhpal and Naib Tehsildar on 28.12.1974 and copies of reports of Lekhpal and Naib Tehsildar have been annexed along with the writ petition as Annexures-1 and 2. The Prescribed Authority rejected the application for spot inspection by his order dated 25.3.1989 on the ground that the question of irrigated land and land submerged under water can be decided on the basis of records and, therefore, there is no necessity of making spot inspection and by order dated 28.4.1989, he declared land of the petitioner as surplus. The appeal filed by the petitioner has also been dismissed by the Additional Commissioner, Bareilly Division, Bareilly, by his judgment dated 20.3.1990. Aggrieved, the petitioner has approached this Court by means of the present writ petition.

3. The Prescribed Authority and in appeal, the Additional Commissioner mentioned in their judgments the two directions given by the Supreme Court which were required to be followed by the respondents, but while deciding the case of the petitioner, only gave lip service to the directions of the Supreme Court. The directions of the Apex Court are binding and its non-compliance directly or indirectly amounts to non-application of mind.

4. The question as to whether the land of the petitioner is submerged under water or not cannot be decided only from the entries mentioned in the records or upon the statement of Lekhpal. In view of the directions of the Apex Court, it was incumbent upon the Prescribed Authority to have made spot inspection in the presence of the petitioner and to have prepared a detailed report about the plots which are alleged to be submerged under water.

5. Similarly, for deciding the question of irrigated land under Section 4A of the Act, since the allegation of the petitioner was that the plots were sandy and the soil

was not capable of growing double crop, the Prescribed Authority ought to have made spot inspection in the presence of the petitioner and prepared a detailed report about each of the plots in dispute separately.

6. Since both the authorities below failed to comply with the directions of the Apex Court in its true spirit, their judgments rejecting the application for spot inspection and declaring the petitioner's land as Surplus cannot be upheld.

7. The writ petition succeeds and is allowed. The judgment dated 20.3.1990 passed by the Additional Commissioner, Bareilly (Annexure-7 to the writ petition) and the judgments of the Prescribed Authority dated 25.3.1989 and 28.4.1989 (Annexures-5 and 6 to the writ petition) are hereby quashed. The case is remanded to the Prescribed Authority with a direction to make spot inspection of the plots in accordance with the observations made in this judgment expeditiously and shall give notice to the petitioner of the date on which spot inspection is to be made by him.

8. There shall be no order as to costs.