

IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI

AND

HON'BLE SRI JUSTICE RAKESH THAPLIYAL

SPECIAL APPEAL NO. 333 OF 2022

14TH AUGUST, 2023

BETWEEN:

State of Uttarakhand & another Appellants.

And

Chandan Singh Jeena & others Respondents.

Counsel for the Appellants : Ms. Monika Pant, learned counsel.

Counsel for the Respondent Nos.1 to 3: Mr. I.P. Gairola, learned counsel.

Counsel for the Respondent No.4 : Mr. Aditya Singh, learned Additional Chief Standing.

The Court made the following:

JUDGMENT:(per Hon'ble The Chief Justice Sri Vipin Sanghi)

Delay Condonation Application (IA No. 02 of 2022)

By this application, the appellants seek condonation of 75 days delay in preferring the present special appeal.

2. The delay condonation application is opposed by the respondents- writ petitioners, and they have filed their reply.

3. We have heard learned counsels.

4. The reason for the delay has been explained by the appellants by stating that, after the judgment had been rendered by the learned Single Judge in Writ Petition (S/S) No.3624 of 2018, on 15.06.2022, a copy of the same was forwarded by the office of the District Social Welfare Officer,

Bageshwar to the Directorate of Social Welfare, Uttarakhand, Haldwani *vide* letter dated 24.06.2022, and received on 30.06.2022. The Directorate of Social Welfare, Haldwani, Uttarakhand, *vide* letter dated 06.07.2022 sought directions from the Government, and thereafter, *vide* letter dated 12.07.2022 forwarded detailed comments/ report to the Government for further necessary action. The Law Department of the State granted permission *vide* Letter No.302, dated 04.08.2022 for preferring the special appeal, which was communicated to the Secretary, Social Welfare. Eventually, *vide* letter dated 20.08.2022, the Chief Standing Counsel was requested to prepare the special appeal, and file the same. The special appeal was drafted on 05.09.2022. The duly notarized special appeal was handed over to the C.S.C. on 14.09.2022 for filing the same. In the meantime, decision was taken to engage special counsel to argue the special appeal *vide* letter dated 16.09.2022. It is stated that due to the communication gap regarding filing of the special appeal, handed over to the office of the C.S.C., the appeal could not be filed. Thereafter, the C.S.C. was required to hand over the duly notarized special appeal along with the certified copy of the order, *vide* letter dated 27.09.2022.

5. The aforesaid actions entailed delay of 75 days in preferring the appeal. From the application, it would be seen that the appellant was clearly intent on in preferring the

special appeal, and was taking steps for the said purpose. We are, therefore, inclined to allow the application. The delay condonation application is allowed, and the delay of 75 days in preferring the special appeal is condoned.

Special Appeal No.333 of 2022

6. The present special appeal is directed against the judgment dated 15.06.2022, rendered by the learned Single Judge in Writ Petition (S/S) No.3624 of 2018.

7. The claim in the writ petition primarily was directed against the Director, Social Welfare, State of Uttar Pradesh, since the same related to the period prior to the creation of the State of Uttarakhand. The operative part of the impugned judgment also shows that a writ of mandamus was issued to the respondents, which included not only the State of Uttarakhand, but also the Director, Social Welfare, State of Uttar Pradesh to pay the scale of Rs.5000-8000/- to the writ petitioners, w.e.f. 01.01.1996 till 08.11.2000- when the State of Uttarakhand was carved out.

8. The State of Uttarakhand has preferred this special appeal since contempt proceedings have been initiated by the respondents- writ petitioners, on account of non-compliance of the judgment dated 15.06.2022. The respondents- writ petitioners have filed the objections to the delay condonation application, wherein it is, *inter alia*, states that "*this payment*

has to be made by the Director, Social Welfare, State of U.P., Lucknow who has sent his letter dated 18.08.2022 to the appellants that the documents pertaining to the petitioners be made available so that order of the Hon'ble High Court of Uttarakhand Nainital could be implemented".

9. Learned counsel for the respondents-writ petitioners submits that the payment would be made by the State of Uttar Pradesh provided the appellants- State of Uttarakhand, provides the relevant documents to the State of Uttar Pradesh. In this regard, the respondents have referred to the letter dated 18.08.2022, issued by the Director, Social Welfare, State of U.P., to the Director, Social Welfare, State of Uttarakhand. A copy whereof has been filed as Annexure No.1 to the said affidavit.

10. Learned counsel for the respondents- writ petitioners submits that the respondents have preferred the contempt petition, including against the appellant- State of Uttarakhand, since the Department has not cooperated and not provided the relevant documents due to which, the payment due to the respondents- writ petitioners is held up.

11. Ms. Pant, on instructions, states that the State of Uttarakhand shall positively provide all the relevant documents to the State of U.P. in terms of their communication dated 18.08.2022, within four weeks.

12. The appellants shall remain bound by the said statement.

13. In case, the said statement is fulfilled, the contempt proceedings against the appellants- State of Uttarakhand shall be dropped.

14. The appeal stands disposed of in the aforesaid terms.

15. Pending application, if any, also stands disposed of.

(VIPIN SANGHI, C.J.)

(RAKESH THAPLIYAL, J.)

Dated: 14th August, 2023

NISHANT