

**Court No. - 52**

**Case :-** WRIT - C No. - 8566 of 2020

**Petitioner :-** Kayanat Shiksha Vikas Samiti

**Respondent :-** State Of U.P. And 3 Others

**Counsel for Petitioner :-** Kshitij Shailendra, Akanksha Mishra, Ashish Agrawal

**Counsel for Respondent :-** C.S.C., Bhupendra Kumar Tripathi

**Hon'ble Saurabh Srivastava, J.**

1. Heard Sri Uttam Singh, Advocate holding brief of Sri Ashish Agrawal, learned counsel for petitioner and Sri Rajkumar Singh, learned Standing Counsel as well as Sri Bhupendra Kumar Tripathi, learned counsel for Gram Sabha.
2. The present petition has been preferred for seeking quashing of the order dated 03.10.2019 passed by respondent no.2 i.e. Sub Divisional Officer, Tehsil Gunnaur, District Sambhal along with consequential entry incorporated in the revenue records.
3. Brief facts of the present case are that the then Sub Divisional Officer Gunnaur granted lease in favour of Bhupal, Chhotey and Asgar Khan in respect of gata nos.76/1, 76/3 and 76/1 respectively and the entries pertaining to grant of lease were incorporated in the revenue records on 09.03.1976. After death of Bhupal and Asgar Khan, names of their legal heirs, namely Ram Khiladi and Ashraf Khan respectively were duly recorded in the revenue records as bhumidhar with transferable rights.
4. On 06.04.1996, Ashraf Khan executed a registered sale deed in favour of Sabitri Bal Vidyalaya and in pursuance of the same, mutation was made on 11.10.1996. On 20.03.1996, Chhotey was declared as bhumidhar with transferable rights and on 06.04.1996, Chhotey sold his land to one Deshi and in pursuance of the same, name of Deshi was mutated in the revenue records on 28.10.1996. After obtaining permission from Additional District Magistrate for selling his land, Deshi executed a registered gift deed in favour of Sabitri Bal Vidyalaya on dated 11.12.1996. All the aforesaid transfers and changes were duly incorporated in the revenue records and the same were never challenged by anyone.
5. On 07.07.2002, name of Sabitri Bal Vidyalaya was changed into Kaynat Shiksha Vikas Samiti in pursuance of the administrative

order passed by the Registrar of Societies and such change was also incorporated in the revenue records.

6. In the year 2018-19, the petitioner initiated process for obtaining affiliation from Central Board of Secondary Education, New Delhi, whereupon under the Headship of District Magistrate, Sambhal inquiry and inspection was conducted by concerned departments such as Fire Department, Public Works Department, Forest Department, Electricity Department as well as Sub Divisional Officer itself and joint reports dated 23.06.2018, 23.07.2018 and 30.05.2018 were submitted regarding approval for affiliation from the CBSE, New Delhi.

7. In September, 2019, some proceedings were initiated behind the back of the petitioner and the concerned Lekhpal submitted a report dated 28.09.2019 that no document pertaining to gata no.76 was available on record and as such, name of the petitioner/institution is fraudulently recorded in CH Form 45 and the land in question was recorded as naveen parti. On the basis of such report, Tehsildar forwarded the matter to the Sub Divisional Officer whereupon after five days, the Sub Divisional Officer has passed the order dated 03.10.2019 directing to expunge the name of the petitioner and record the name of Gram Sabha and also directed to lodge first information report against the manager of the petitioner which impugned the present petition.

8. Learned counsel for the petitioner submitted that the petitioner had purchased the land in question from its previous recorded tenure holders through registered sale deed and registered gift deed in the year 1996 and the petitioner's transferer is claimed to have been recorded in the revenue record since 1985 as bhumidhar with transferable rights, by the impugned order which does not show any case number to identify it with any proceedings taken under the U.P. Revenue Code, 2006 or Land Revenue Act, 1901, name of the petitioner has been ordered to be expunged from the revenue records without affording it any opportunity of hearing and as such, the order impugned may be liable to be set aside.

9. Learned Standing Counsel vehemently opposed the prayer as made in the petitioner and supported the order which impugned the present petition.

10. By bare perusal of the order impugned, it is apparent that no opportunity of hearing has ever been afforded to the petitioner in support of its claim and it is also nowhere mentioned that the said order has been passed under any provisions of U.P. Revenue Code or Land Revenue Act. It is also apparent that the said order has

been passed on administrative side which does not bear any reference to any case registered under the provisions of U.P. Revenue Code or Land Revenue Act.

11. In view of the aforesaid facts and circumstances, the order dated 03.10.2019 is quashed and set aside, matter is hereby remitted back to the respondent no.2 for deciding afresh after affording proper opportunity of hearing to the petitioner.

12. The present petition stands **allowed** accordingly.

**Order Date :- 16.10.2023**

Vivek Kr.