

Court No. - 52

Case :- WRIT - C No. - 25347 of 2020

Petitioner :- Amarnath Rathor

Respondent :- State Of U.P. Through D.M. And 3 Others

Counsel for Petitioner :- Om Prakash, Syed Mohammad Abbas Abdy

Counsel for Respondent :- C.S.C., Bhupendra Kumar Tripathi, Chandra Prakash Yadav, Sunil Kumar Singh

Hon'ble Saurabh Srivastava, J.

1. Heard learned counsel for the parties and perused the record.
2. The writ petition is directed against the order dated 22.01.2020 passed by District Magistrate, Varanasi allowing the appeal preferred by Land Management Committee, respondent no. 4 and cancelling the lease for fisheries granted in favour of the petitioner.
3. Brief facts, as emerge from record and argued by learned counsel for the petitioner, are that respondent no. 2, Sub-divisional Magistrate, Rajatalab, District Varanasi published an information with regard to allotment of fisheries *patta* on 28.12.2017 pursuant where to petitioner applied for allotment of *patta* and was found fittest person to be allotted *patta* of Pond Gata No. 329 area 0.295 hectare, situated in Village Deura, Tehsil Rajatalab, District Varanasi and accordingly *patta* in favour of the petitioner was approved by Sub-divisional Officer vide order dated 28.03.2018. Being aggrieved, Land Management Committee preferred appeal before District Magistrate, Varanasi under Section 59(233(2)(14) of U.P. Revenue Code, 2006 registered as Case No. 01333/2019 (Computer Case No. D201914700001333) (President Land Management Committee, Deura Vs. Amarnath and others), which has been allowed by District Magistrate, Varanasi vide order dated 22.01.2020 whereby while allowing the appeal preferred by Land Management Committee, *patta* issued in favour of the petitioner has been cancelled. Being aggrieved, petitioner has preferred the present writ petition.
4. Learned counsel for the petitioner contended that while deciding the appeal preferred by Land Management Committee challenging the grant of *patta* in favour of the petitioner, no notice or opportunity of hearing was afforded to the petitioner, thus the impugned order is vitiated on account of being

violative of principles of nature justice and the same is liable to be set aside. It is further contended that only on the basis of religious sentiments of the local public *patta* granted in favour of the petitioner has been cancelled by the appellate authority, while in respect to the same pond, earlier also lease was granted in favour of one Chhote Lal Bind for a period of ten years as is evident from the *Fard* placed on record by the petitioner along with the rejoinder affidavit as RA-1. Had the petitioner been given opportunity, he could have brought these facts before the appellant authority.

5. Learned Standing Counsel, when confronted, fairly conceded that the matter may be remanded to the appellate authority to decide the appeal afresh after affording opportunity of hearing to petitioner also.

6. In view of above, the writ petition is allowed. The order dated 22.01.2020 passed by respondent no. 1 is set aside. Matter is remanded to District Magistrate, Varanasi to decide the appeal preferred by Land Management Committee being case no. Case No. 01333/2019 afresh, after giving due opportunity of hearing to all concerned parties, including the petitioner. The exercise, as directed above, shall be completed by District Magistrate, Varanasi as expeditiously as possible preferably within a period of six months from the date of production of a certified copy of this order before him.

Order Date :- 8.11.2023

P.Sri.