

Court No. - 40

Case :- WRIT - C No. - 29589 of 2023

Petitioner :- M/S Yash Solutions

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

Counsel for Petitioner :- Vipin Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard learned counsel for the petitioner and Sri Devesh Vikram, learned Additional Chief Standing Counsel for the State-respondent.

2. The present writ petition has been preferred for a direction to the respondents to make payment of admitted amount Rs. 99,38,209/- for the test of Soil samples for Soil Health Card Scheme running the National Mission for sustainable agriculture for the financial year 2018-19 in Bareilly Division Bareilly within the stipulated time with interest. Alternatively, prayer is made to direct the respondents to decide the representation/letter dated 1.5.2022 (Annexure No. 9 to the writ petition).

3. At the very outset, learned Additional Chief Standing Counsel raised an objection that the present writ petition is a third petition moreover for the same cause of action. Earlier the petitioner had preferred Writ C No. 8212 of 2019 (M/S Yash Solutions v/s. State Of U.P. And 6 Others) challenging the orders dated 8.10.2018 whereby contract of the petitioner for soil testing had been cancelled and it was blacklisted for a period of three years. The Division Bench vide order dated 22.5.2019 had set aside both the orders and the writ petition was allowed with further observation that it would be open to the respondents to pass fresh order after conducting due and proper inquiry in accordance with law. Thereafter, another Writ C No. 33900 of 2023 was preferred, wherein, the petitioner had prayed for a direction to the respondents to decide the representation/letter dated 01.05.2022 moved by the petitioner within stipulated time. It had also been prayed that respondents be directed to make payment of admitted amount of Rs. 98,41,000/- for the test of Soil samples for Soil Health Card Scheme running under the National Mission for sustainable agriculture for the financial year 2018-19 in Aligarh Division, Aligarh, within stipulated time with interest. While entertaining the said writ petition on 2.12.2023, this Court had considered the objection of learned Standing Counsel to the effect that in response to the order of writ court, the inquiry was on and the notice was given to the petitioner on 25.08.2021, in which, written reply was given on 27.09.2021. Even though, the petitioner had filed the objection just for matching the hand-writing. The Inquiry Officer had already asked to the petitioner for submitting his signature so that it might be verified but till date he is

not co-operating in the ongoing inquiry. In this backdrop, this Court had disposed of the writ petition vide order dated 2.12.2023 with further mandate to the respondents to conclude the inquiry expeditiously preferably within a period of two months from the date of production of certified copy of this order with further observation that the petitioner would extend full co-operation in the ongoing inquiry only thereafter, the second relief could be pressed by the petitioner. In this backdrop, learned Additional Chief Standing Counsel vehemently contended that repeated writ petitions have been preferred but till date in spite of notice, the petitioner has not submitted his signature, as such, the writ petition is liable to be dismissed treating it to be third petition for the same cause of action.

4. We have proceeded to examine the record in question as well as orders passed by this Court in the aforementioned writ petition. Considering the facts and circumstances of the case, we are of the considered opinion that the objection so raised by learned Additional Chief Standing Counsel is sustainable.

5. The issue of filing successive writ petition has been considered by the Hon'ble Supreme Court time and again and held that even if the earlier writ petition has been dismissed as withdrawn, Public Policy, which is reflected in the principle enshrined in Order 23 rule 1 C.P.C., mandates that successive writ petition cannot be entertained for the same relief. (Vide **M/s. Sarguja Transport Service Vs. State Transport Appellate Tribunal & Ors.**, AIR 1987 SC 88; **Ashok Kumar & Ors. Vs. Delhi Development Authority**, 1994 (6) SCC 97; and **Khacher Singh Vs. State of U.P. & Ors.**, AIR 1995 All. 338).

6. In **Dr. Buddhi Kota Subbarao Vs. K. Parasaran & Ors.**, AIR 1996 SC 2687, the Hon'ble Supreme Court has observed as under:-

"No litigant has a right to unlimited drought on the Court time and public money in order to get his affairs settled in the manner he wishes. However, access to justice should not be misused as a licence to file misconceived and frivolous petitions."

7. In **Abdul Rahman Vs. Prasoni Bai & Anr.**, (2003) 1 SCC 488, the Hon'ble Supreme Court held that wherever the Court comes to the conclusion that the process of the Court is being abused, the Court would be justified in refusing to proceed further and refuse the party from pursuing the remedy in law.

8. In view of the above, we are not inclined to proceed further in the matter. Needless to say, in case the petitioner does not cooperate in the on-going inquiry, the respondents would be at liberty to proceed ex-parte and conclude the inquiry expeditiously preferably within three weeks from the date of production of a certified copy of this order in compliance of the mandate dated 2.12.2023.

9. With the aforesaid observations, the writ petition stands **disposed of**.

Order Date :- 13.12.2023

A.K.Srivastava