

Court No. - 52

Case :- WRIT - C No. - 30105 of 2023

Petitioner :- Smt. Bhavna

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Subedar Mishra

Counsel for Respondent :- C.S.C.,Sunil Kumar Singh

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Subedar Mishra, learned counsel for petitioner and learned Standing counsel for State respondents.

2. Present petition has been filed seeking relief in the nature of certiorari to quash the impugned order dated 19.08.2023 passed by Sub Divisional Magistrate, Sikandrabad, District Bulandshahar in patrank no. 605/R.K dated 19.8.2023 whereby the lease granted in favour of petitioner was cancelled.

3. It is the case of petitioner that she participated in auction proceedings for granting fisheries lease of plot no. 414 area 1.7710 hectare situated at village Butaina, Tehsil Sikandarabad, District Bulandshahar recorded as pond and being the highest bidder, petitioner was allotted fisheries lease of the said pond on dated 21.04.2022. After allotment of the said lease, petitioner deposited the requisite allotment amount on dated 21.06.2022. Thereafter, some of the villagers started trying to dispossess the petitioner from the possession of aforesaid pond, upon which petitioner moved an application before the District Magistrate, Bulandshahar who called the report from the respondent no. 3 (Sub Divisional Magistrate, Sikandrabad, District Bulandshahar) and respondent no. 3 has given detailed report on dated 23.6.2023 stating that allotment of pond in question is according to rules.

4. In collusion with area lekhpal, the revenue authorities prepared a false report dated 10.08.2023 stating therein that the allotment of lease in favour of petitioner is against the provision of Rule 57 of U.P. Revenue Code Rules, 2016 and in pursuance of the said report, respondent no. 3/Sub Divisional Magistrate, Sikandrabad, District Bulandshahar, has illegally cancelled the approved allotment granted in favour of petitioner on dated 13.06.2022 vide impugned order dated 19.08.2023 and on the same date notification was published for fresh auction proceedings of the said

pond.

5. Learned counsel for petitioner challenged the impugned order on the ground that earlier at the behest of application moved by the petitioner before respondent no. 3, detailed report dated 23.6.2023 was given by respondent no. 3 before respondent no. 2 stating that allotment of pond in question is according to Rules 57 and 58 of U.P Revenue Code Rules, 2016. It is also submitted that the impugned order was passed on the ground that petitioner was the single bidder at the time of auction proceedings which creates doubt over the auction proceedings and to contradict this ground learned counsel for petitioner relied upon judgment rendered by co-ordinate Bench of this Court in case of ***Awadhesh Kumar vs. State of U.P. through Secretary Deptt of Fisheries LKO & ORS (2020 (38) LCD 540)*** decided on 21.01.2020.

6. Learned Standing counsel for State respondents vehemently opposed the prayer as made by learned counsel for petitioner but could not dispute the facts mentioned in the petition.

7. After hearing the rival submissions advanced by both the parties and perusing the records, it is crystal clear that the impugned order dated 19.08.2023 has been passed on the ground of petitioner being the single bidder while this Court in the case of ***Awadhesh Kumar (supra)*** as well as in several other cases has held that as per Rule 57(7) of the U.P. Revenue Code Rules, 2016, even if a single bidder is found eligible, the lease shall be granted to the rate prescribed by the Government and as such the impugned order is not sustainable in the eye of law and is liable to be quashed.

8. In view of the aforesaid facts and circumstances, order dated 19.08.2023 passed by respondent no. 3 is hereby set aside. Matter is remitted back to the respondent no. 3 for deciding afresh after affording due opportunity of hearing to all the parties. Till the disposal of the objection of the petitioner, status quo shall be maintained by all the parties over the plot in dispute. However, it is made clear that the amount agreeable in pursuance to the lease deed shall be abide by the petitioner.

9. Writ petition stands ***allowed*** accordingly.

Order Date :- 16.10.2023

Shaswat