

**Court No. - 39**

**Case :-** WRIT - C No. - 40445 of 2023

**Petitioner :-** Smt. Pushpa Devi @ Pushpa Shukla

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

**Counsel for Petitioner :-** Saurabh Raj Srivastava

**Counsel for Respondent :-** C.S.C.

**Hon'ble Saumitra Dayal Singh,J.**

**Hon'ble Vinod Diwakar,J.**

1. Upon written instructions, Shri Mukul Tripathi, learned Standing Counsel informs that application dated 18.01.2021 filed by the petitioner came to be dismissed vide order dated 31.10.2023. Relying on the copy of that order, it has been submitted that the same has not been communicated to the learned Standing Counsel as part of the written instructions.

2. On the other hand, learned counsel for the petitioner has placed on record the certified copy of that order dated 31.10.2023 as has now been made available to him. The same has been marked as 'X' and retained on record.

3. Perusal of the order reveals the only reason given in that order is that the petitioner failed to appear before the authority concerned.

4. Having heard learned counsel for the parties and having perused the record, it is observed that proceeding remained pending for three years. Copy of the order sheet annexed to the writ petition (Annexure-1) discloses that the matter was adjourned repeatedly over a long period of almost one year. Largely for the reason of the Presiding Officer being unavailable and or for other reasons not attributable to the conduct of the petitioner.

5. In such circumstances, it is surprising to note that the respondent

no. 3 chose to dismiss the proceedings for want of prosecution for alleged non appearance of the petitioner on one or two dates. The authority has acted unmindful of the fact that the order sheet of the case beginning 15.02.2021 states that the proceeding was listed on not less than 60 occasions. On none of those dates, adjournment was granted at the instance of the petitioner.

6. In the context of a welfare legislation to preserve the life and property of senior citizens, the act of dismissal of the application filed by the petitioner, for want of prosecution, appears to be a mindless act on the part of the quasi judicial authority.

7. The order dated 31.10.2023 is not worth the value of paper and ink spent in writing it. The authority concerned must try and understand the letter and spirit of the law under which it seeks to exercise its power.

8. Accordingly, the order dated 31.10.2023 (a copy of which has been taken on record), is set aside. The respondent no. 2, District Magistrate, Prayagraj shall now issue a fresh notice to the parties to appear before it within a period of two weeks from today and pass appropriate reasoned order within a further period of fifteen days therefrom.

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

**Order Date :- 11.12.2023**  
SA

**(Vinod Diwakar, J.)      (S.D. Singh, J.)**