

Court No. - 48

Case :- WRIT - B No. - 3885 of 2023

Petitioner :- Rajesh Kumar Shukla

Respondent :- State Of U.P. And 9 Others

Counsel for Petitioner :- Vijay Kumar Sharma

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Shyam Shamsheery,J.

1. This writ petition is not only bereft of photocopy of purported representation which is purportedly filed by as many as 46 persons, however, this writ petition is filed only by one person without even disclosing that he is authorized to file this writ petition on behalf of other persons.

2. This writ petition could be dismissed on ground of bereft of material documents, however, since argument is made on merit of the case that this Court may direct the Authority concerned to consider representation filed to quash the notification under Section 4(A)2 of U.P. Consolidation of Holdings Act, 1953, therefore, I proceed to consider submissions.

3. I have considered the prayer, however, a judgment passed by Division Bench of this Court in the case of **Agricultural and Industrial Syndicate Ltd. vs. State of U.P., 1976 RD 35** is contrary to prayer sought in this writ petition wherein it has held that:-

" **21.** None of the submissions made by Sri Khwaja in support of the petition has any merit. There is yet another argument advanced by the learned counsel for the State which implies to reject the submissions made on behalf of the relief to it. If we were to allow this petition and quash the notification issued under Section 6 of the Act, the result would be in substance a direction to the State Government to continue consolidation proceedings in the area in question in spite of the fact that it has not considered

it fit to do so in exercise of powers vested in it by the legislature. As already held, the notifications under Section 4 and 6 of the Act are issued by the State Government in exercise of conditional legislative powers. It cannot be conceivably contended that this Court can issue a mandamus to the legislature to legislate on any subject or to apply any law to any area. It was observed by the Supreme Court in the *State of Bihar v. Sir Kamleshwar Singh* ([A.I.R. 1952 S.C. 252.]):

"It cannot possibly have been intended that the legislature should be under an obligation to make a law in exercise of that power, for no obligation of that kind can be enforced by the Court against a legislative body."

4. In these circumstances, this Court cannot direct the Authorities to legislate or not to legislate, therefore, prayer made in this writ petition cannot be allowed and this writ petition is, accordingly, **dismissed**.

Order Date :- 22.11.2023

Nirmal Sinha