

Court No. - 48

Case :- WRIT - B No. - 3957 of 2023

Petitioner :- Lalmani Singh @ Lalman Singh

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

Counsel for Petitioner :- A.P.Singh

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Shyam Shamschery,J.

1. In the present case, following facts are relevant to be mentioned :-

(i) During consolidation proceedings, the Consolidation Officer, Basti, decided chak objections filed by respective parties by an order dated 22.10.2022, which was incorporated in C.H. Form-23.

(ii) The contesting respondent, being aggrieved by above order, filed a belated appeal on 23.12.2022, along with an application for condonation of delay.

(iii) During pendency of above referred appeal, contesting respondent filed another appeal with application of condonation of delay on 28.01.2023.

(iv) During pendency of above referred subsequent appeal, contesting respondent was withdrew first appeal on 28.02.2023.

(v) The Appellate Authority considered the subsequent appeal and condoned the delay and posted the matter for hearing by an order dated 19.05.2023.

(vi) The aforesaid order was challenged at behest of petitioner by way of filing a revision petition. The revision petition was rejected by an order dated 25.10.2023 on ground that Appellate Authority has only condoned the delay, which was not extraordinary and since the appeal is now posted for hearing, no interference was called for.

(vii) Above orders are impugned in present writ petition.

2. Sri A.P. Singh, learned counsel for petitioner submits that contesting respondent has not come up with clean hands before Appellate Authority and, therefore, both appeals ought to have been dismissed. Learned counsel further refers condonation of

delay application filed along with appeal filed at first instance as well as refers application for condonation of delay filed along with subsequent appeal and submits that it was wrongly mentioned in subsequent application for condonation of delay that information about impugned order was received much later on.

3. Learned counsel also submits that while filing subsequent appeal, contesting respondent has not disclosed that an appeal was already filed and it was dismissed as not pressed, only after when the subsequent appeal was filed.

4. Learned counsel for respondent has not denied that two appeals were filed, however, he submits that first appeal was already dismissed as withdrawn and in filing second appeal there was a delay of few months, therefore, the delay was rightly condoned and appeal has been put up for final hearing.

5. Heard counsel for parties and perused the record.

6. On basis of above undisputed facts, the contesting respondent was not bonafide since while filing the subsequent appeal he has not disclosed about filing of earlier appeal as well as that facts mentioned in condonation of delay were also contrary and for that conduct of counsel for respondent was equally non-bonafide.

7. Considering that these proceedings are arising out of consolidation proceedings and aggrieved persons are villagers as well as that presently, appeal filed earlier has already been not pressed and since delay of few months in filing subsequent appeal has already been condoned by Appellate Authority and matter is put up for final hearing, therefore, at this stage, even on above facts, I find that any interference would not be in the interest of justice, therefore, without interfering with impugned order this petition is **disposed of** with direction/observation that Appellate Authority shall decide the appeal expeditiously and respondents/appellants will ensure that they will not try to mislead the authority in any manner.

Order Date :- 29.11.2023

P. Pandey