

Court No. - 80

Case :- CRIMINAL MISC. WRIT PETITION No. - 18582 of 2023

Petitioner :- Manish

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

Counsel for Petitioner :- Shobhit Yadav

Counsel for Respondent :- G.A.

Hon'ble Subhash Chandra Sharma,J.

Heard learned counsel for the petitioner as well as learned A.G.A. for the State and perused the material on record.

The present writ petition under Article 226 of the Constitution of India has been moved with following prayers :-

I- To issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 08.11.2023 passed by respondent no. 3, by which the stay application filed by the petitioner before the respondent No. 3 has been rejected.

II- To issue a writ, order or direction in the nature of Mandamus directing in the nature of Mandamus stay the further proceeding initiated under Section 3(1) of U.P. Goondas Control Act, 1970.

III- To issue a writ, order or direction in the nature of mandamus commanding/ directing the respondent No. 3 to ensure the hearing of the Appeal filed by the petitioner within stipulated period of time as directed by this Hon'ble Court in the interest of justice.

It is submitted by learned counsel for the petitioner that an order for externment under Section 3(1) of U.P. Control of Goondas Act, 1970 was passed by the District Magistrate, Jalaun in Case No. 1160 of 2023 vide order dated 21.10.2023 on the basis of report dated 04.07.2023 against which an appeal was filed before the Commissioner, Jhansi Division, Jhansi which was admitted and is still pending but no stay order of externment was passed. In this way, during the pendency of appeal, if the affect of order in question is not stayed the purpose of appeal would be defeated, therefore, requested to direct the court concerned not to take any coercive action against the petitioner in pursuance of externment order dated 21.10.2023 during the pendency of appeal and to decide the appeal as expeditiously as possible.

Learned A.G.A. urged that in this case order was passed by the District Magistrate, Jalaun on the basis of material on record and against which appeal was filed but he

has nothing to object about the stay of operation of order for externment during the pendency of appeal.

Considering the facts and circumstances of the case, submissions made by learned counsel for the petitioner as well as learned A.G.A. for the State, perusal of record and the order passed by the Commissioner at the time of admission of appeal, it appears that though the appeal has been filed and is still pending before the court of Commissioner for final hearing but the application filed by the petitioner for staying the implementation of the order in question was rejected which cannot be said to be lawful.

As a result, it is directed that the order dated 21.10.2023 passed by the District Magistrate, Jalaun for externment and under challenge in appeal shall remain in abeyance during the pendency of appeal.

It is also directed that Commissioner, Jhansi Division, Jhansi shall made his endeavour to decide the appeal of the petitioner as expeditiously as possible preferably within a period of 90 days from the date of production of certified copy of this order.

Accordingly, this writ petition is ***disposed of*** finally.

Order Date :- 13.12.2023

Suraj Srivastav