

Court No. - 16

Case :- CRIMINAL MISC. WRIT PETITION No. - 1359 of 2024

Petitioner :- Bhure Dafali @ Kaiser Ali

Respondent :- State Of U.P. Thru. Secy. Home Lko. And 3 Others

Counsel for Petitioner :- Arvind Kumar Tiwari

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Heard learned counsel for the petitioner, learned AGA for the State and perused the record.

This writ petition has been filed with the following prayers:-

"i) issue a writ, order or direction in the nature of certiorari to quash the impugned order dated 31.10.2023 passed by the opposite party No.3 i.e. District Magistrate, Shrawasti in Case No. 527/2023, computerized Case No. D202308620000527, under Section 3/4 of U.P.Control of Goondas Act, 1970 (State Versus Bhure Dafali @ Kaiser Ali) as well as order dated 01.12.2023 passed by the opposite party No.2 i.e. Commissioner, Devi Patan Mandal, Gonda in Case No. 1719/2023, Computerized Case No. C202308000001719, under Section 6 of U.P.Goondas Act, 1970 (Bhure Dafali @ Kaiser Ali Vs. State of U.P.) contained as Annexure No. 1 & 2 to this writ petition.

ii) Issue a writ, order or direction in the nature of Mandamus stay the operation and implementation of the order dated 01.12.2023 passed by the Commissioner, Devi Patan Mandal, Gonda as well as order dated 31.10.2023 passed by the District Magistrate, Shrawasti, contained as Annexure No. 2 and 1 respectively to this writ petition."

Learned counsel for the petitioner submits that the notice under Section 3(1) U.P. Control of Goondas Act, 1970 (hereinafter referred to as the 'Act') has been issued to the petitioner for submitting representation/reply, thereafter, the petitioner submitted a detailed representation/reply but the respondent No.3 without considering the submissions made by the petitioner passed the externment order dated 31.10.2023 and petitioner was directed to remain outside the district for a period of six months, being aggrieved against the said order, the petitioner preferred an appeal under Section 6 of the Act before the Commissioner, respondent no.2. The learned Commissioner also without considering the grounds taken by the petitioner in the appeal and without giving opportunity of hearing dismissed

the appeal vide order dated 01.12.2023, thereafter, the petitioner by means of the present writ petition challenged both the orders before this Court for quashing the same on the ground that both the orders are bad in the eye of law.

Per contra learned AGA has submitted that the present writ petition has now become infructuous due to reason that at present no cause of action survives in the present writ petition as the externment order passed against the petitioner was only for a period of one month and the appeal against the said order has also been dismissed, so in the present writ petition nothing remains to be decided nor there is any adverse order against the petitioner for which he is aggrieved.

Learned counsel for the petitioner in rejoinder argued that there is an apprehension in the mind of the petitioner that the respondent authorities may take disadvantage of the impugned orders in future against the petitioner.

I have considered the rival submissions made by the parties and perused the record.

From the perusal of the externment order, it is not disputed that the same has already expired and the appeal filed against the said externment order before the Commissioner, respondent no.2 under section 6 of the Act has also been dismissed and after lapse of so many years, there is no externment order against the petitioner nor any fresh order exists in the present case, which causes any harm to the petitioner. In the present writ petition, nothing remains to be decided on merits as no cause of action survives in the present writ petition at present nor there is any adverse order against the petitioner for which he is prejudiced.

The apprehension of the petitioner that the authorities may take disadvantage of the impugned orders in future against him is also not justified unless he is not involved in any other criminal case. If he is aggrieved by any other order passed by the respondents, he may approach the competent court of law for redressal of his grievances.

With the above observations, the present writ petition is **disposed of.**

No order as to costs.

Order Date :- 23.8.2024
Arvind