



2026:UHC:3885-DB

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE SHRI MANOJ KUMAR GUPTA
AND

HON'BLE SHRI JUSTICE SUBHASH UPADHYAY

19TH MAY, 2026

SPECIAL APPEAL No. 93 OF 2026

Sainik School Ghorakhal and another.

..Appellants

Versus

Sanjeev Kumar Choudhary.

..Respondent

With

WRIT PETITION (M/ S) No. 674 OF 2026

Sanjeev Kumar Choudhary.

..Petitioner

Versus

Sainik School Ghorakhal and others.

..Respondents

Counsel for the appellants in SPA : Mr. Ketan Joshi, learned counsel.
No. 93/2026 and for respondent
nos. 1 & 2 in WPMS No. 674/2026.

Counsel for respondent no. 2 in SPA : Mr. Sandeep Kothari, learned counsel.
No. 93/2026 and for the petitioner
in WPMS No. 674/2026.

COMMON JUDGMENT : (per Shri Manoj Kumar Gupta, C.J.)

1. Heard Mr. Ketan Joshi, learned counsel for the Sainik School Ghorakhal, and Mr. Sandeep Kothari, learned counsel for the respondent-writ petitioner.

2. By order dated 09.04.2026, the writ petition was withdrawn from the Single Judge Bench, and was directed to be listed before us, along with the special appeal, in view of the



fact that the special appeal is directed against an interim order passed in the writ petition, and we were of the opinion that the special appeal and the writ petition should be heard and decided together.

3. The writ petitioner, namely Sanjeev Kumar Choudhary, assailed the order dated 26.02.2026 cancelling allotment of Shop No. 9, which was allotted in favour of the writ petitioner vide order dated 30.01.2025, and also the action of the appellants in taking possession of the aforesaid shop on 16.03.2026, and blacklisting the writ petitioner for a period of one year.

4. The undisputed facts are as follows :-

Shop No. 18 was allotted to Kanchan Choudhary, wife of the writ petitioner, in the year 2023-24. The allotment was extended for six months by order dated 01.10.2024. Thereafter, the shop in question was put to auction, and it came to be allotted in favour of Pushpa Shah - proforma respondent no. 3 in the writ petition. The case of the writ petitioner in the writ petition was that, since Shop No. 18 was earlier occupied by his wife, he made extensive improvements in the said shop. Subsequently, while Shop No. 18 came to be allotted to Pushpa Shah, Shop No. 9 was allotted in favour of the writ petitioner in the year 2025. However, on basis of



mutual agreement between the parties, the wife of the writ petitioner continued in possession of Shop No. 18, and the Principal of the Sainik School was aware of the said arrangement. In the subsequent year, when the shops were going to be re-allotted, the writ petitioner made request for allotment of Shop No. 18 in his favour, and Shop No. 9 to Pushpa Shah. The appellants, instead of carrying out exchange of the shops, passed the impugned order holding that the writ petitioner had sublet his shop to Pushpa Shah. The learned Single Judge, finding *prima facie* case in favour of the petitioner, stayed the operation of the impugned order.

5. Learned counsel for the writ petitioner submits that, since it is not disputed that Shop No. 18 was earlier allotted to Kanchan Choudhary, wife of the writ petitioner, and the said shop subsequently came to be allotted to Pushpa Shah, whereas Shop No. 9 was allotted to the writ petitioner, the parties, on basis of a mutual understanding, exchanged their shops, and the writ petitioner continued to carry on business from Shop No. 18. The Cantonment Authorities, instead of approving the said exchange, have illegally proceeded to pass the impugned orders. He submits that, in view of the aforesaid facts, the occupation of Shop No. 18 by the writ petitioner and occupation of Shop No. 9 by Pushpa Shah would not amount to sub-letting - the ground, on which allotments have been



cancelled, and the writ petitioner has been debarred from participating in future tenders.

6. Learned counsel for the appellants, on the other hand, submitted that the entire action was taken by the appellants on basis of a complaint dated 04.02.2026 by Pushpa Shah and after holding a fact finding inquiry, in which it transpired that the writ petitioner was in illegal possession of Shop No. 18. He, however, concedes that the order of blacklisting/ debarment has been passed without proper notice to the writ petitioner.

7. During course of hearing of the special appeal and the writ petition, we enquired from the writ petitioner as to whether proforma respondent no. 3 - Pushpa Shah is ready to support the case of the petitioner that she had agreed for exchange of the shops. In view of the said query, an affidavit of Pushpa Shah dated 16.04.2026 has been filed, in which she has supported the case set-up by the writ petitioner in the writ petition. She has specifically stated that since 2025 she was in occupation of Shop No. 9, which was allotted to the writ petitioner, and the writ petitioner remained in possession of Shop No. 18, on basis of mutual agreement between them.

8. As the entire action was taken by the appellants, only on basis of the complaint filed by Pushpa Shah, and now since



she has given affidavit stating that she has no objection to exchange of the shops, we are of the considered opinion that the controversy should be given a quietus by permitting the parties to continue from the respective shops in their possession, i.e. the writ petitioner from Shop No. 18 and Pushpa Shah from Shop No. 9.

9. The order of the appellants, cancelling the allotment and debarring the writ petitioner from participating in future tenders, in our considered opinion, are accordingly liable to be set aside, and are, hereby, set aside. The appellants shall pass formal order of exchange of the said shops, thus allotting Shop No. 18 to the writ petitioner, and Shop No. 9 to Pushpa Shah. This is without prejudice to any other ground, which the appellants may have for proceeding against the parties.

10. Accordingly, the special appeal and the writ petition stand disposed of.

11. All pending applications stand disposed of accordingly.

MANOJ KUMAR GUPTA, C.J.

SUBHASH UPADHYAY, J.

Dt: 19th May, 2026
Rahul

RAHUL
PRAJAPATI