HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 33314 of 2026

Committee Of Management Kanya Inter College

.....Petitioner(s)

Versus

State Of Uttar Pradesh And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Devansh Misra, Mohd Asif
Counsel for Respondent(s)	:	C.S.C.

Court No. - 37

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Sri Devansh Misra, learned counsel for the petitioner and Sri Shashi Kant Kushwaha, learned standing counsel for the state-respondents.

2. The instant writ petition has been filed for the following reliefs:-

> **"I. issue a writ, order or direction in the nature of Certiorari, quashing the order dated 09.06.2026 passed by the Sub Divisional Magistrate, Division Jhansi Tehsil Moth, District Jhansi - Respondent No. 4 in Case No. 6985 of 2025 under Section 38(1) of U.P. Revenue Code, 2006 (Annexure-1 to this writ petition);**
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> **ii. issue writ, order or direction in the nature of Certiorari, quashing the order dated 31.07.2026 passed by the Commissioner, Division Jhansi, Tehsil Moth, District Jhansi in Case No. 1240 of 2026 under Section 38(4) of U.P. Revenue Code, 2006 (Annexure-2 to the writ petition);"**

3. Counsel for the petitioner states that on the basis of the allotment made in the year 1996, the petitioner is running an educational institution over the plot in question. He submitted that without any proceeding for cancellation of allotment, the proceeding under Section 38(1) of the U.P. Revenue Code, 2006 has been initiated and the name of the petitioner-institution has been expunged as well as the plot in question has been ordered to be recorded as *navin parti* in

the records. He submitted that appeal under Section 38(4) of the U.P. Revenue Code, 2006 along with prayer for interim relief has been filed which has been entertained but the prayer for interim relief has been rejected in arbitrary manner. He submitted that appropriate direction be issued to the authority concerned for the expeditious disposal of the pending appeal and till the pendency of the appeal, the effect and operation of the order dated 9.6.2026 passed by Sub Divisional Officer should be stayed. He further placed reliance on a decision of this Court reported in ***2007 (102) RD 498, Ali Sher Vs. State of U.P. Through Collector, Bijnor and Others*** in support of his arguments.

4. On the other hand, learned Addl. C.S.C. for State submitted that petitioner's appeal under Section 38(4) of the U.P. Revenue Code, 2006 is pending, as such, the writ petition is not maintainable and the petitioner should approach the appellate court for redressal of his grievance.

5. I have considered the arguments advanced by learned counsel for the parties and perused the records.

6. There is no dispute about the fact that the appeal under Section 38(4) of the U.P. Revenue Code, 2006 filed by the petitioner is pending before the appellate court and prayer for interim relief has been refused.

7. This Court in the case of **Ali Sher** (supra) has held that interim protection be granted during pendency of appeal / revision, if the order under appeal and revision has serious civil consequences. Paragraph Nos.4 & 5 of the judgment rendered in **Ali Sher** (supra) is relevant which is as follows:

> **"4. It is well settled that once an appeal or revision is entertained by a higher Court against an order having civil consequences stay normally should be granted to avoid swinging pendulum unless the Court for the reasons to be recorded finds that there is no case for grant of stay as observed by the Hon'ble Apex Court in the case of Mool**

Chand v. Raza Buland Sugar Industries."

5. Considering the facts and circumstances, impugned order dated 16.11.2006 is hereby quashed. Writ petition stands allowed. Appellate Court is directed to disposal of the appeal of petitioner in accordance with law as expeditiously as possible preferably within a period of two months from the date of production of certified copy of this order before him and till the disposal of appeal as directed above, parties shall maintain status quo with regard to nature and possession over the land in dispute."

8. The court below under Section 38 of the U.P. Revenue Code, 2006 has expunged the petitioner's entry without notice / opportunity to the petitioner which is mandatory for the court/authority as held by this Court in **Chaturgan vs. State of U.P. and Others, 2005(98) RD 244.**

9. Considering the entire facts and circumstances of the case and the ratio of law laid down in **Ali Sher** (supra) and **Chaturgan** (supra), without expressing any opinion on the merits of the case, this petition is disposed of with the direction to respondent no.2/Commissioner, Division Jhansi, Jhansi to decide the pending appeal, as expeditiously as possible, preferably within a period of 3 weeks, from the date of production of a certified copy of this order before the authority concerned, in accordance with law. It is further directed that till the disposal of the aforementioned appeal, the order order 9.6.2026, passed by respondent no.4/Sub Divisional Magisrtrate, Pargana and Tehsil Moth, Jhansi, shall remain in abeyance.

(Chandra Kumar Rai,J.)

October 29, 2026
C.Prakash

Digitally signed by :-
CHANDRA PRAKASH
High Court of Judicature at Allahabad