

alone was granted for the filing of the objections and suggestions when publication was made under Section 4. It is not as if the matter is so urgent that such a short notice is to be given. Though the petitioners have not raised any complaint as such against the short period, and we need not actually pronounce on this; but, we certainly think that in future, Government must apply its mind to it and give reasonable time to persons concerned to raise objections for proposal and also apply its mind to the matter.”

18. In the cited case of **Nagar Palika Parishad**, one of the challenges made to the notification was that the extension of the area of Nagar Palika Parishad was hurriedly taken without issuing and publishing the primary notification as provided under Section 4(1) of the Act, 1916. The Court found the challenge on this aspect to be baseless inasmuch as a draft notification under Section 4 of the Act, 1916 was published in the official Gazette and objections were invited. Certain objections/suggestions were received which included a representation of the petitioner. All the representations were considered and it was found by the Court that the other representations that were duly decided in detail with reasons, were on the same line as that of the petitioner’s representation and, therefore, the contention that the objections of the petitioner were not decided with reasons, was found to have no force.

19. However, in the instant case, the facts are different. The objections of the petitioners were never considered. Under

the circumstances, the notification and the order impugned in the writ petition cannot be sustained so far as they relate to Village Barsana Dehat.

20. The writ petition is, accordingly, **allowed** and the impugned notification dated 13.10.2022, insofar as it relates to Village-Barsana Dehat, Vikas Khand-Nand Gaon, Tehsil-Goverdhan, District Mathura, is quashed and the order dated 20.9.2022 passed by the respondent no.5, insofar as it relates to Village-Barsana Dehat is quashed.

(2024) 11 ILRA 367
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: LUCKNOW 22.11.2024

BEFORE

THE HON’BLE IRSHAD ALI, J.

Writ -C No. 1000081 of 1994

Smt. Sushma Srivastava ...Petitioner
Versus
State of U.P. & Ors. ...Respondents

Counsel for the Petitioner:
 Avadhesh Kumar

Counsel for the Respondents:
 C.S.C.

A. Revenue Law – UP Zamindari Abolition & Land Reform Act, 1950 – Section 198(4) – Cancellation of patta – Land is a pond – Lessee is not the landless agricultural labour and her husband is in government job of Sub Divisional Officer in Tube Well Department – Effect – Held, allotment of lease is to be granted in favour of persons, who comes under the category defined under the Act. The petitioner does not come under the ambit nor is a landless agriculturist – No illegality has been committed in passing the impugned orders. (Para 13)

Writ petition dismissed. (E-1)

(Delivered by Hon'ble Irshad Ali, J.)

1. Heard Sri Avadhesh Kumar, learned counsel for the petitioner and learned Additional CSC for respondent - State.

2. The present dispute pertains to plot Nos.22/23 and 276M/1.25 situated in village Mohammadpur Dina, Pargana and Tehsil Mohammadi, District Kheri. The patta in respect of disputed land was granted to the petitioner in pursuance of a resolution made by land management committee on 22.04.1987, which was later on approved by the Addl. Sub Divisional Officer on 12.07.1987. On the basis of tehsil report, the proceedings under Section 198(4) UPZA and LR Act for cancellation of patta granted in favour of the petitioner in respect of the disputed land were started on the ground that her husband was having much land and he was on the post of Assistant Engineer. Further the petitioner was not found in the category of land less agricultural labour.

3. On the basis of said report of tehsil, a case was registered and a notice was served on the petitioner in which the petitioner filed her objection on the ground that she was the permanent resident of the said gaon sabha and she was a land less agricultural labour. □ In support of her case, the petitioner produced herself and two witnesses - Misri Lal and Pyara Lal. It is submitted that on behalf of the State, only one witness i.e. Ram Gopal, Lekhpal was produced. The petitioner also filed the extract of Khatauni as well as Khasra showing the name of the petitioner over the said disputed land.

4. By perusal of khasra and khatauni filed by the petitioner, it is clear that the disputed land i.e. plot Nos.276 & 22 are recorded as talab and the petitioner had taken the training of fisheries. It is stated that the patta in favour of the petitioner was for fisheries purpose and therefore the cancellation of patta by the Collector, Kheri under Section 198 (4) UPZA and LR Act is without jurisdiction.

5. Vide order dated 13.08.1990, the Collector, Kheri has cancelled the patta granted in favour of the petitioner only on the ground that the petitioner is not the land less agricultural labour and husband of the petitioner is doing government service and as such, she is not competent to get patta. Against the order of the Collector, the petitioner filed a revision before the Addl. Commissioner (Judicial), Lucknow Division, Lucknow, who dismissed the revision on 27.10.1993. Against the said order dated 27.10.1993, the petitioner filed a review petition before the Addl. Commissioner (Judicial) Lucknow Division, Lucknow, who dismissed the review petition on 14.12.1993 on the ground that no new argument could be brought on her behalf as made earlier at the time of passing the order dated 27.10.1993.

6. Being aggrieved by orders dated 13.08.1990 passed by the Collector, orders dated 27.10.1993 and 14.12.1993 passed by the Additional Commissioner, Lucknow Division, Lucknow, the present writ petition has been filed before this Court.

7. Submission of learned counsel for the petitioner is that the courts below have committed error in cancelling the patta of the petitioner on imagination, conjecture and surmises. In fact, the record has wrongly interpreted and wrong

conclusion was made that the petitioner was not a competent person to get the patta granted in her favour.

8. He next submitted that the courts below have acted without jurisdiction in cancelling the patta of the petitioner under Section 198 (4) UPZA and LR Act, while the said patta was granted in favour of the petitioner for fisheries rights.

9. On the other hand, learned Additional CSC for respondent State on the basis of counter affidavit stated that on the basis of resolution passed by the land management committee, gata No.22/0.23 acre and 276 min./1.25 acre total 2 kita/1.48 land was allotted in favour of the petitioner and both these gatas pertain to the pond, therefore, a report for cancelling the patta was sent to the Court of District Magistrate, Kheri under Section 198(4) UPZA and LR Act. The District Magistrate, after hearing all the parties, cancelled the allotment of patta vide order dated 13.08.1990.

10. Against the order dated 13.08.1990, the petitioner preferred a revision before the Additional Commissioner under Section 333 of UPZA and LR Act, which was dismissed vide judgment and order dated 27.10.1993. Against the said order, the petitioner filed a review application, which was also rejected vide order dated 14.12.1993 being devoid of merits.

11. He lastly submitted that there is no illegality and infirmity in the impugned orders and the same are just and valid. The writ petition being misconceived, is liable to be dismissed by this Hon'ble Court.

12. I have considered the submissions advanced by learned counsel

for the parties and perused the material on record.

13. On perusal of record, it is transpired that the petitioner is not an agriculturist labour nor has been allotted land in the shape of pond for fisheries rights. In fact, the land is a pond and allotment of lease is to be granted in favour of persons, who comes under the category defined under the Act. The petitioner does not come under the ambit nor is a landless agriculturist. In fact, 3.42 hectare land has been allotted in the name of petitioner's husband Sri Awadhesh Kumar, who is posted as Sub Divisional Officer in Tube Well Department, therefore, lease cannot be granted in his favour, therefore, no illegality has been committed in passing the impugned orders.

14. In view of above, the writ petition lacks merit and is hereby dismissed.

(2024) 11 ILRA 369

**ORIGINAL JURISDICTION
CRIMINAL SIDE**

DATED: ALLAHABAD 26.11.2024

BEFORE

**THE HON'BLE SIDDHARTHA VARMA, J.
THE HON'BLE VINOD DIWAKAR, J.**

Application U/S 482 No. 8635 of 2023
With other connected cases

**Abhishek Awasthi @ Bholu Awasthi
...Applicant**

**Versus
State of U.P. & Anr. ...Opposite Parties**

**Counsel for the Applicant:
Jayant Kumar**

Counsel for the Opposite Parties: