

50. From the contents of paragraph nos.10 & 25 of the counter affidavit, it is evident that respondents have not denied the specific averments made by the petitioner that institution junior to the petitioner have been granted benefit of grant-in-aid. Further, the respondent in paragraph no.25 of the counter affidavit admits that the institution namely 'Junior High School Roopan Chapra, Village & Post Roopan Chapra, District Deoria' has been granted recognition. However, the only excuse which they have taken is that there is clear stipulation in the Government Order 03.01.2017 that above order shall not be treated to be the example for other matters.

51. This Court may note that such direction in the order dated 03.01.2017 cannot be sustained in law inasmuch as the State Government has no right to discriminate two identically placed persons. In the present case, once State Government has granted the benefit of grant-in-aid to similarly placed institution namely, 'Junior High School Roopan Chapra, Village & Post Roopan Chapra, District Deoria', the State Government cannot deny the said benefit to the petitioner's institution on the pretext that the Special Secretary, Government of U.P. in the order dated 03.01.2017 has stated that this shall not be treated as an example for other cases.

52. Thus, it is evident that the action of the respondents in not taking the petitioner's institution on grant-in-aid is arbitrary and is violative of Article 14 of the Constitution of India, therefore, impugned order cannot be sustained in law for this reason also.

53. Normally this Court would have remanded the matter to the authority to consider the claim afresh, but in the instant case, as already stated above that petitioner had been contesting since 2009 and had to approach this

Court for seven times prior to filing of present writ petition, therefore, this Court does not find it appropriate to remand the matter to the authority concerned to take a fresh decision.

54. It is also pertinent to note that this Court has already held above that petitioner's right to be taken on grant-in-aid has crystallised under the Government Order dated 07.09.2006, and the impugned order has not been passed on the ground that petitioner is not eligible to be taken on grant-in-aid under the Government Order dated 07.09.2006 rather a new ground has been set up that petitioner cannot be extended the benefit of grant-in-aid on the pretext of new Government Order dated 14.07.2020, therefore, in such view of the fact, it would not be appropriate to remand the matter to the authority concerned.

55. Thus, for the reasons given above, this Court set aside the impugned order and directs the Respondent no.1-Special Secretary, Basic Education, Government of U.P., Lucknow to take petitioner's institution on grant-in-aid and provide full financial aid to the petitioner forthwith.

56. The writ petition is *allowed* with no order as to costs.

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**(2025) 5 ILRA 1521**  
**ORIGINAL JURISDICTION**  
**CIVIL SIDE**  
**DATED: LUCKNOW 23.05.2025**

**BEFORE**

**THE HON'BLE IRSHAD ALI, J.**

Writ C No. 1000570 of 2001

**Laxmi Objection Filed Appropriate Bench  
& Ors. ....Petitioners**

**Versus**

**U.P. Zila Adhikari/ Sub-Divisional Officer  
Misrikh Sitapur & Ors. ...Respondents**

**Counsel for the Petitioners:**

Mohd. Ali

**Counsel for the Respondents:**

C.S.C.

**(A) Administrative Law - Judicial review of an administrative order - U.P. Zamindari Abolition and Land Reforms Act, 1950 - Section 132 - Whether a subsequent officer has the jurisdiction to cancel a predecessor's order without providing an opportunity of hearing - An administrative order passed by a subsequent officer, which cancels a predecessor's order, is invalid and liable to be quashed if it is done without notice, without an opportunity of hearing, and without a vested power of review.(Para - 7 to 10)**

Petitioner, a Scheduled Caste landless agricultural labourer in possession of land for over 40 years - challenged the Sub-Divisional Officer's order cancelling earlier grant without notice - passed allegedly on social forestry claim - without affording the petitioner an opportunity to be heard. (Para - 3 to 6)

**HELD:** - Impugned order was quashed on the grounds that it was passed without notice or opportunity of hearing, and the officer had no jurisdiction to review the earlier order passed by his predecessor. (Para - 10,11,12)

**Petition Allowed.** (E-7)

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

1. Heard learned counsel for the petitioner and learned Additional Chief Standing Counsel for the respondent - State.

2. By means of present writ petition, the petitioner is challenging the order of opposite party No.1 dated 07.02.2001 by which earlier order dated 29.12.1997 has been cancelled without giving opportunity of hearing to the petitioner.

3. Factual matrix of the case is that the petitioner belongs to scheduled caste category and is a landless agricultural labourer. The petitioner is in continuous occupation and possession of the land in question for last more than 40 years. Initially, the said land was Usar land. The petitioner after putting his hard labour and skill could be able to turn the same into fertile land. Lekhpal of the circle submitted his report that the petitioner is in possession of the land in question prior to 03.06.1985 and at present he has sown

4. The then Up Zila Adhikari vide order dated 29.12.1997 considered the report of Tehsildar and other documents available on record of the case including khasra No.141 in which it was recorded that the petitioner has sown paddy crop on the said land. The land was not reserved under Section 132 of the Act.

5. On 08.12.2000 some employees of the Forest Department started digging out trenches of the land in question and on protest being made by the petitioners, he was threatened by them for dire consequences. The petitioner approached Up Zila Adhikari, Mishrikh by way of filing application dated 08.12.2000. The Up Zila Adhikari vide order dated 16.12.2000, restrained the Forest Range Officer, Mishrikh from digging out the trenches on the land of the petitioner. When forest department did not comply with the aforesaid order, the petitioner apprised the same to Additional District Magistrate, Sitapur, who vide order dated 30.12.2000 directed the Forest Range Officer, Misrikh to ensure the compliance of order dated 16.12.2000.

6. The impugned order has been passed unilaterally after sufficient long

time, which also amounts to review of earlier order dated 29.12.1997. A perusal of the impugned order would reveal that on the basis of letter sent by the Director Incharge, Social Forestry, the order has been passed. In the said letter, it was alleged that the land in question was reserved for social forestry. Then allegedly inquiry was conducted by the Naib Tehsildar and then impugned order was passed by which the earlier order dated 29.12.1997 passed by his predecessor, has been cancelled without giving any opportunity of hearing to the petitioner.

7. Submission of learned counsel for the petitioner is that subsequent officer does not have jurisdiction to review the earlier order passed by his predecessor. His next submission is that the order impugned has been passed without notice and without giving opportunity of hearing. In this regard, statement of fact has been made in paragraph 18 and 19 of the writ petition.

8. On the other hand, learned Additional CSC for respondent - State submitted that the impugned order does not suffer from any infirmity or illegality and is just and valid order.

9. I have considered the submissions advanced by learned counsel for the parties and perused the material on record.

10. It is admitted case of the parties that prior to passing of the order, no notice nor opportunity of hearing was provided to the petitioner. It has also been admitted that the power to review does not have with the officer - respondent No.1, who has passed the impugned order. The statement of fact made in paragraph 18 & 19 of the writ petition has been admitted in paragraph 20

of the counter affidavit that no notice nor opportunity of hearing was afforded to the petitioner.

11. In view of reasons recorded above, the writ petition succeeds and is **allowed**.

12. The impugned order dated 07.02.2001 is hereby quashed.

13. No order as to costs.

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**(2025) 5 ILRA 1523**  
**ORIGINAL JURISDICTION**  
**CIVIL SIDE**  
**DATED: LUCKNOW 16.05.2025**

**BEFORE**

**THE HON'BLE IRSHAD ALI, J.**

Writ C No. 1002411 of 1999

**Mohd. Arif Khan & Ors. ....Petitioners**  
**Versus**  
**State of U.P. & Ors. ...Respondents**

**Counsel for the Petitioners:**

M.A. Khan

**Counsel for the Respondents:**

C.S.C.

**(A) Administrative Law - Firearms - Deposit of licensed firearms during Parliamentary elections - Arms Act, 1959 - Section 24-A & 24-B - Validity of police direction requiring deposit - No suspension/cancellation of licence - Lack of statutory backing - Election Commission - licence-holders cannot be compelled to deposit firearms unless licence is suspended or cancelled in accordance with law - no nexus between objective sought to be achieved and impugned action - Deposit of licensed firearm cannot be enforced in absence of statutory order suspending/cancelling**