

explicitly states its applicability to specific projects undertaken by PGCIL. Moreover, ambiguity remains as to whether the policy extends to the farmers who have already received compensation from PGCIL but are dissatisfied with the amount paid to them.

23. At the outset, this Court deems it necessary to clarify that matters involving policy decisions fall within the exclusive domain of the executive, and judicial interference in such matters is warranted only in cases of manifest arbitrariness, unreasonableness, or violation of fundamental rights. The Writ Court cannot substitute its wisdom with the policy making authorities unless it suffers from conditional infirmity. In view of the above, the present writ petition, which primarily seeks judicial intervention in a policy matter, does not warrant the Court's indulgence at this stage.

24. In the present case, the compensation granted earlier by PGCIL was based on a report of Conservator of Forests, Moradabad as stated in the counter-affidavit filed by the respondents. However, no supporting record has been annexed. Furthermore, before disbursing the compensation, no formal award was passed by the District Judge for the same.

25. Accordingly, this Court concludes that the earlier compensation granted by PGCIL in absence of an award, was merely a *suo moto* payment made by the PGCIL, that is, Telegraph Authority under Section 10 (d) of the Telegraph Act and not under Section 18 (2) of the Telegraph Act, which requires an award to be passed following a diligent application by the Telegraph Authority.

26. Thus, the contention of the petitioner that the earlier compensation was granted under Section 18 (2) of the Telegraph Act is

categorically rebuffed by this Court, as no award was passed by the Magistrate. Consequently, the only remedy available to the petitioners, for their grievances in case they are aggrieved by the compensation or want to aggrandize the same which has been granted earlier by the Telegraph Authority, is to approach the District Judge under Section 16 (3) of the Telegraph Act by filing an appropriate application.

27. The Apex Court also affirmed in **Power Grid Corporation of India Ltd.** (supra) that it is the District Judge, and not the District Magistrate, who has jurisdiction under Section 16 (3) of the Telegraph Act, to determine issues relating to adequacy and sufficiency of compensation.

28. Accordingly, the present writ petition is disposed of on the ground of an alternative remedy available under Section 16 (3) of the Telegraph Act. The petitioners are relegated to approach the District Judge for redressal of their grievances.

(2025) 4 ILRA 661
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 03.04.2025

BEFORE

THE HON'BLE MANOJ KUMAR GUPTA, J.
THE HON'BLE ANISH KUMAR GUPTA, J.

Writ C No. 28104 of 2024
 With
 Writ C No. 33280 of 2024
 With
 Writ C No. 33439 of 2024

Sri Krishna & Anr.Petitioners
Versus
U.O.I. & Ors. ...Respondents

Counsel for the Petitioners:
 Sri Suresh Singh

Counsel for the Respondents:

A.S.G.I., C.S.C., Sri Subodh Kumar

Civil Law – Constitution of India, 1950 – Article 226, - U.P. Zamindari Abolition and Land Reforms Act, 1950 – Sections 198, 198(4), 198(5), 198(6) & 333 - Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 – Sections 11 & 19:-

Writ Petition – Direction sought for release of compensation pursuant to land acquisition - Agricultural land originally allotted to petitioners on lease (Patta) in 2003 – Mutation duly recorded in revenue records - complaint received in 2009, alleging irregularities in the allotment of Patta – proceeding initiated u/s 198(4) of Act, 1950 – lease cancelled by the Collector in 2015 – Revision, allowed on the ground of lack of jurisdiction in 2016 – Cancellation set aside – Proceedings attained finality – subsequently, the land was acquired by the government - compensation was awarded in 2023 – Authorities denied to paid compensation, on the ground that, a fresh proceedings were initiated by the SDM to cancel the leases - *whether the order of SDM after declaration of Award, petitioners can be denied for compensation for the acquired land* – court finds that, cancellation proceedings were reopened on the basis of a report received in 2023, – Notices were issued in 2024, nearly after lapse of 21 years, - Proceedings initiated u/s 198(4) of the Act, 1950 held to be ex facie barred by limitation – such action amounts to legal overreach – Further, the U.P. Z.A.L.R. Act, 1950 stands repealed by the U.P. Revenue Code, 2006 and as per Section 128 of the Code, limitation for cancellation of allotment or lease is 5 years – Thus, the proceedings were beyond the prescribed period and without jurisdiction – held - the fresh proceeding for cancellation of allotments was beyond the limitation and lack of jurisdiction therefore same is quashed - writ petition, allowed with directions, to pay the compensation to the petitioners in terms of Award, within four weeks, with a cost of Rs. 25000/- each Patta, direction issued accordingly. (Para – 11, 18, 21, 23, 24)

Writ Petition Allowed. (E-11)**List of referred Cases: -**

1. Suresh Giri & ors.Vs Board of Revenue & ors.– 2010 vol. 2 ADJ 514,
2. Ramker Chauhan Vs Commissioner, Azamgarh & ors.– 2012 vol. 8 ADJ 713,
3. Rishi Pal & ors.Vs St. of U.P. & ors.– 2018 vol. 7 ADJ 391,
4. Smt. Shakuntala & ors.Vs St. of U.P. & ors.– 2019 vol. 5 ADJ 871,
5. Joint Commissioner Ranga Reddy District & anr.Vs D Narsing Rao & ors.– 2015 vol. 3 SCC 695

(Delivered by Hon'ble Manoj Kumar
Gupta, J.

&

Hon'ble Anish Kumar Gupta, J.)

1. The present batch of petitions involves similar facts and legal issues, as well as the relief sought, and therefore they have been heard together and are being decided by a common order and judgment.

2. The prayer made in all the petitions is for issuance of writ of mandamus, commanding the respondents to release compensation amount for the acquired lands belonging to the petitioners in pursuance of the land acquisition proceedings conducted by the respondents.

3. It is admitted by the parties that the petitioners were granted agricultural lease of different parcels of land admeasuring 0.2000/0.3000 hectare, situated in Village Maniyapur, Pargana and Tehsil Narwal, District Kanpur Nagar, on 31.3.2003, after obtaining approval from the competent authority as per the law prevailing at the relevant time. Based on the same, the names of the petitioners were mutated in the revenue records. On

16.9.2009, a complaint was made by one Ram Khilawan, alleging irregularities in the allotment proceedings. It was registered as Case No. 18 of 2009-2010, under Section 198(4) of the U.P. Zamindari Abolition and Land Reforms Act, 1950 (for short 'UPZALR Act') in the court of Collector, Kanpur Nagar. In the said proceedings, vide order of Collector dated 29.6.2015, the allotment dated 31.3.2003 was cancelled, holding that various irregularities were committed in granting the patta. The order of Collector dated 29.6.2015 was challenged by the allottees in Revision No. 134 of 2015, filed under Section 333 of UPZALR Act, read with the provisions of U.P. Land Revenue Act. The revision was allowed by Additional Commissioner by order dated 26.10.2016, holding that the power to cancel the leases was not with the Collector, but with the Assistant Collector of the Sub Division Incharge. The order dated 26.10.2016 allowing the revision was not challenged by any party and thus it became final.

4. On 11.04.2022, the respondents issued a notification under Section 11 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It was followed by notification under Section 19 dated 20.12.2022, and award dated 2.3.2023. Before declaring the award, notices were issued to the petitioners on 28.2.2023, intimating them that award would be declared on 2.3.2023 and they were required to submit necessary documents (a notary affidavit, along with passport size photograph, a revenue ticket, bank passbook, PAN Card, Aadhar Card, certified copy of khatauni and share certificate from Tehsildar) to facilitate the release of compensation amount in their favour.

5. Recently, on 6.3.2024, the respondents issued notices to the petitioners and other allottees, stating that a report dated 23.03.2023 has been submitted by Tehsildar for re-initiating proceedings for cancellation of allotments dated 31.03.2003. The petitioners were required to submit their reply by the next date, i.e. 18.3.2024, failing which, proceedings would be held ex-parte.

6. The case of the petitioners is that they have submitted the required documents for release of compensation in terms of award dated 02.03.2023, but they have not been paid compensation and therefore, the present batch of petitions has been filed seeking a direction to the said effect.

7. A counter affidavit has been filed by Naib Tehsildar, Narwal, District Kanpur Nagar, on behalf of respondent no. 5, i.e. Competent Authority (Land Acquisition)/Additional District Magistrate, Kanpur Nagar, wherein it is not disputed that the petitioners were granted separate agricultural leases in pursuance of approval order dated 31.3.2003 and that the same are covered under the acquisition notifications issued under Act No. 30 of 2013 and award dated 2.3.2023. It has also not been disputed that the petitioners were issued separate notices by respondent no. 5 to appear before him and submit documents to facilitate release of compensation amount in terms of the award. However, the respondents have taken the stand that at the stage of payment of compensation, it came to their knowledge that the leases in favour of the petitioners were not valid and that the Additional Commissioner allowed the revision filed by the allottees upon a finding that the authority competent to cancel the leases was Sub Divisional

Magistrate and not District Magistrate. Accordingly, the Sub Divisional Magistrate has registered Case No. T201603410408882 (State of U.P. vs. Ashok Kumar and Others) under Section 198(4) of UPZALR Act, for cancelling the agricultural leases granted to the petitioners on 31.3.2003. The said proceedings were stated to be pending and on basis of these facts, it has been prayed that the writ petitions be dismissed.

8. Another affidavit has been filed by Additional District Magistrate/Special Land Acquisition Officer, Kanpur Nagar in compliance of order dated 19.12.2024. The stand taken therein in respect of the allotment of agricultural leases in favour of the petitioners vide order dated 31.3.2003 and the proceedings held for cancellation of the agricultural leases vide Case No. 18 of 2009-2010 is the same as pleaded by the petitioners. It is also admitted that the subject land was acquired vide notifications dated 11.4.2022 and 20.12.2022 under the provisions of Act No. 30 of 2013 for establishment of a defence corridor. It is further admitted that in the past, the leases were cancelled by the Collector vide order dated 29.6.2015 and the said order was set aside by the Additional Commissioner by order dated 26.10.2016 on the ground of lack of jurisdiction with the District Magistrate. It is stated that since the findings on merits recorded by the District Magistrate in relation to irregularities in allotment proceedings were not set aside while allowing the revision, therefore, the court of Sub Divisional Magistrate/Assistant Collector 1st, Tehsil Narwal, District Kanpur Nagar has reopened the proceedings for cancellation of leases. It is stated that in the said proceedings, notices were issued to the petitioners and they were duly served.

Except one Ashok Kumar, others did not appear and therefore, after hearing arguments on his behalf, the Sub Divisional Magistrate passed a final order on 18.12.2024, cancelling the order of approval of leases dated 31.3.2003. It is stated that in view of the said order, the petitioners are not entitled to any compensation.

9. Learned counsel for the petitioners, on the other hand, submitted that the entire proceedings for cancellation of leases is mala fide and also without jurisdiction inasmuch as even show-cause notice for initiation of cancellation proceedings could not have been issued after lapse of five years from the date of allotment in view of Section 198(6) of U.P.Z.A. & L.R. Act. It is submitted that even the earlier proceeding initiated on the complaint of one Ram Khelawan on 16.09.2009, though stood terminated in favour of the petitioners, was barred by limitation. It is submitted that objection in this regard was duly taken by Ashok Kumar and the said fact is also noted in the order, but the same has not been considered. It is further submitted that it is settled law that the State does not acquire its own land and once the subject lands were notified for acquisition treating the same as belonging to private persons, it is too late in the day to allege that the patta granted in favour of the petitioners was irregular or illegal. As a necessary corollary, the proceedings under Section 198(4) initiated by SDM with issuance of show cause notice in month of March 2024 and the order dated 18.12.2024 are totally illegal and without jurisdiction.

10. It is evident from perusal of the record and submissions made by learned counsel for the parties that there is no

dispute between the parties that agricultural leases were granted in favour of the petitioners and other (total 176 persons) measuring 0.2000/0.3000 hectares on basis of the resolution of the Land Management Committee, duly approved by SDM on 31.03.2003. Giving effect to the same, names of the petitioners were mutated in the revenue records. The recent khatauni evidences that the petitioners were conferred the status of bhumidhar with non transferable rights.

11. The sole issue for consideration is whether in view of order dated 18.12.2024 passed by SDM after declaration of the award, the petitioners can be denied compensation for the acquired lands. In pith and substance, the plea of the State is that the patta in favour of the petitioners was illegal and the same having been cancelled vide order dated 18.12.2024, the land stood vested in the State and therefore, notwithstanding the award dated 02.03.2023, the petitioners are not entitled to any compensation. As the plea has been set up to deny compensation to the petitioners and that too on basis of order passed during pendency of the writ petition and in opposition to the said plea, it is contended that the entire proceedings are without jurisdiction, therefore, in the peculiar facts and circumstances of the instant case, we proceed to examine the same to the extent it is based on the admitted facts.

12. The power to cancel allotment is hedged with checks and balances. Thus, while sub-section (4) of Section 198 of UPZALR Act confers power in favour of the Collector to enquire as to whether allotment has been made in the manner prescribed, suo moto or on an application of any person aggrieved, sub-

section (5) stipulates that no order for cancellation of allotment or lease shall be made unless a notice to show cause is given to the allottee or his legal representative. There is a further restraint by way of limitation within which show cause notice could be issued, which in the instant case where the patta is dated 31.03.2003, was five years from the date of allotment i.e., upto 31.03.2008. Sub-sections (4), (5) and (6) of Section 198 which are relevant, are as follows:

“(4) The *[Assistant Collector in-charge of the sub-division] may of his own motion and shall on the application of any person aggrieved by an allotment of land inquire in the manner prescribed into such allotment and if he is satisfied that the allotment is irregular, he may cancel the allotment and the lease, if any.

**[(4-A) The Collector may on his own motion or on the application of any aggrieved person call for the record of any suit or proceeding under sub-section (4) decided by the Assistant Collector in-charge of the sub-division for the purpose of satisfying himself as to the legality of propriety of any order passed in such suit or proceedings and if such Assistant Collector in-charge of the sub-division appears to have –

(i) exercised a jurisdiction not vested in it by law; or

(ii) failed to exercise a jurisdiction so vested; or

(iii) acted in the exercise of jurisdiction illegally or with material irregularity;

the Collector may pass such order in the case as he thinks fit and every order passed by the Collector under this sub-section shall be final;]

(5) No order for cancellation of an allotment or lease shall be made under sub-section (4), unless a notice to show cause is served on the person in whose favour the allotment or lease was made or on his legal representatives :

Provided that no such notice shall be necessary in proceedings for the cancellation of any allotment or lease where such proceedings were pending before the Collector or any other Court or authority on August 18, 1980.

(6) Every notice to show cause mentioned in sub-section (5) may be issued –

(a) in the case of an allotment of land made before November 10, 1980, (hereinafter referred to as the said date), before the expiry of a period of [seven years] from the said date; and

(b) in the case of an allotment of land made on or after the said date, before the expiry of a period of [five years from the date of such allotment or lease or up to November 10, 1987, which ever be later].”

13. These provisions have been interpreted time and again by this court in various judgements and it has been held consistently that show cause notice for cancellation, whether suo moto or on application of any person aggrieved, has to be issued within stipulated period or else, the same would be barred by limitation. It would be advantageous to refer to some of the judgements on the point.

14. In **Suresh Giri and Others vs. Board of Revenue and Others, 2010 (2) ADJ 514**, it has been held as follows:

“(10) The time in which the notice for cancellation of allotment of land/lease can be issued by the authority concerned is provided in Section 198(6) of

the Act which lays down that in cases where allotment is made before 10th November, 1980 notice may be issued within a period of seven years of said date and in cases where allotment is made on or after 10th November, 1980 before the expiry of five years from such allotment or up to 10th November, 1987 whichever be later. In short, the limitation for issuing a show cause notice is five years from the allotment where it is made on or after 10th November, 1980.

(11) The provisions of sub-section (4), (5) and (6) of Section 198 of the Act are to be construed in conjunction with one another and cannot be read in isolation. The aforesaid provisions are unambiguous and the language used therein is plain and simple which makes no distinction between proceedings for cancellation of allotment initiated suo motu or on the application of a person aggrieved. Therefore, they have to be construed in the ordinary sense and in no other way. Sub-Section (4) of Section 198 of the Act provides for cancellation of allotment/lease by the Collector on his own motion as well as on the application of the person aggrieved. In both the cases, allotment/lease can not be cancelled without affording an opportunity of hearing to the allottee or the person concerned, as otherwise the action of cancellation would be termed arbitrary and violative of principles of natural justice. Sub-section (6) of Section 198 of the Act follows Section 198(4) of the Act which as such covers both the types of proceedings for cancellation viz. suo motu as well as on application of person aggrieved. (12) Accordingly, in my opinion, the inevitable conclusion is that the time frame prescribed for issuing notice before cancelling the allotment/lease of a land

provided under sub-section (6) of Section 198 of the Act is applicable to both suo motu proceedings as well as proceedings on the application of the person aggrieved.”

15. In Ramker Chauhan vs. Commissioner, Azamgarh and others, 2012 (8) ADJ 713, where, in order to defeat the bar of limitation, it was contended that the same would apply only to cases of irregular allotment and not to cases of illegal allotment, the plea was repelled, observing as follows:

“The power to initiate proceedings for cancellation of the land is provided under Section 198(4) of the Act. As per this Section, the Collector on his own motion or on an application of any person aggrieved by an allotment of land, may cancel the said allotment if he is satisfied that the same is irregular. Sub section (5) of Section 198 provides that no order for cancellation of an allotment or lease shall be made under sub-section (4), unless a notice to show cause is served on the person in whose favour the allotment or lease was made or on his legal representatives. Clause (b) of Section 198 (6) provides that every notice to show cause mentioned in sub-section (5) may be issued in the case of an allotment of land made on or after November 10, 1980, before the expiry of a period of five years from the date of such allotment or lease or up to November 10, 1987, whichever be later. Thus, it nowhere emerges from sub section (6) of Section 198 that any exception is provided in respect of allotments which have been made in violation of the statute. The very nature of the power exercised by the Collector under Section 198(4) is to seek cancellation of those allotment which have either been obtained irregularly or illegally. No

proceeding can be initiated beyond the period of limitation as provided under the statute irrespective of the fact whether the said allotment is irregular or illegal.”

16. The same view has been taken by this court in **Rishi Pal and Others vs. State of U.P. and Others**, 2018 (7) ADJ 391 and **Smt. Shakuntla and Others vs. State of U.P. and Others**, 2019 (5) ADJ 871.

17. In the present case, as noted above, it is undisputed that the leases were approved by SDM on 31.03.2003 who, at the relevant time, was the competent authority to grant the approval. On 16.09.2009, the complaint filed by Ram Khelawan was registered under Section 198(4) of UPZA & LR Act as Case No.18/2009-10. The said proceeding was initiated after lapse of more than five years and apparently barred by limitation. Additionally, as already noted, the said proceeding culminated in favour of the allottees, consequent upon, Revision No.134/2015 having been allowed by Additional Commissioner vide order dated 28.10.2016. The revisional court has simply set aside the order of the Collector dated 29.06.2015 on ground of lack of jurisdiction. The effect of the said order is that it was open to the appropriate competent authority i.e., SDM to re-draw proceedings for cancellation. In fact, as noted above, even that was impermissible as the initial complaint itself, made on 16.09.2009, was beyond the limitation prescribed for issuing show cause notice.

18. It is evident from the order dated 28.12.2024 that the cancellation proceeding were re-opened on basis of a report submitted by Revenue Authorities on 23.03.2023. The SDM issued notice to the

allottees on 06.03.2024 i.e., almost after lapse of twenty one years from the date of allotment i.e., 31.03.2003 fixing 18.03.2024 for filing written statement. Before that the subject land was notified for acquisition treating the same as belonging to the petitioners. An award for the same was duly made. The proceedings initiated on basis of notice issued on 06.03.2024 are ex facie barred by limitation and constitute an over-reach.

19. Here, we may notice an interesting feature of the case. It is clear that the authorities were also conscious of the fact that the limitation had expired. Therefore, instead of initiating fresh proceedings for cancellation, they invented a novel method to defeat the bar of limitation. Thus, Case No. 18/2009-2010, which stood consigned as a result of revision of the allottees having been allowed vide order dated 26.10.2016, was allocated a new computer number, i.e. T20160341040882 and in the same case notice to file written statement was issued fixing 18.02.2024.

20. It is well settled that what cannot be done directly also cannot be done indirectly. Undoubtedly, the proceedings now initiated were not continuation of the complaint of private person but an exercise of suo moto power. Even, in cases of fraud, where delay in initiation of proceedings is generally not fatal, the Supreme Court in **Joint Collector Ranga Reddy District and another vs. D. Narsing Rao and others, (2015) 3 SCC 695** held as under:

"25. The legal position is fairly well-settled by a long line of decisions of this Court which have laid down that even when there is no period of limitation prescribed for the exercise of any power,

revisional or otherwise, such power must be exercised within a reasonable period. This is so even in cases where allegations of fraud have necessitated the exercise of any corrective power. We may briefly refer to some of the decisions only to bring home the point that the absence of a stipulated period of limitation makes little or no difference in so far as the exercise of the power is concerned which ought to be permissible only when the power is invoked within a reasonable period.

31. To sum up, delayed exercise of revisional jurisdiction is frowned upon because if actions or transactions were to remain forever open to challenge, it will mean avoidable and endless uncertainty in human affairs, which is not the policy of law. Because, even when there is no period of limitation prescribed for exercise of such powers, the intervening delay, may have led to creation of third party rights, that cannot be trampled by a belated exercise of a discretionary power especially when no cogent explanation for the delay is in sight. Rule of law it is said must run closely with the rule of life. Even in cases where the orders sought to be revised are fraudulent, the exercise of power must be within a reasonable period of the discovery of fraud. Simply describing an act or transaction to be fraudulent will not extend the time for its correction to infinity; for otherwise the exercise of revisional power would itself be tantamount to a fraud upon the statute that vests such power in an authority.

32. In the case at hand, while the entry sought to be corrected is described as fraudulent, there is nothing in the notice impugned before the High Court as to when was the alleged fraud discovered by the State. A specific statement in that regard was essential for it was a jurisdictional fact,

which ought to be clearly asserted in the notice issued to the respondents. The attempt of the appellant-State to demonstrate that the notice was issued within a reasonable period of the discovery of the alleged fraud is, therefore, futile. At any rate, when the Government allowed the land in question for housing sites to be given to Government employees in the year 1991, it must be presumed to have known about the record and the revenue entries concerning the parcel of land made in the ordinary course of official business. In as much as, the notice was issued as late as on 31st December, 2004, it was delayed by nearly 13 years. No explanation has been offered even for this delay assuming that the same ought to be counted only from the year 1991. Judged from any angle the notice seeking to reverse the entries made half a century ago, was clearly beyond reasonable time and was rightly quashed."

21. There is one more aspect, which though not argued, is germane to the controversy. The UPZALR Act stands repealed by U.P. Revenue Code, 2006 (for short 'the Code'). Section 128 of the Code deals with cancellation of allotment and lease. Sub-section (1) of Section 128, which is relevant, is extracted below: -

128. Cancellation of allotment and lease. - (1) The Collector may, of his own motion and shall on the application of any person aggrieved, inquire in the manner prescribed into any allotment and if he is satisfied that the allotment is in contravention of the provisions of this Code or any of the enactments repealed by this Code or the rules made thereunder, he may cancel the allotment and the lease, if any -

(a) in the case of an allotment of land made before the commencement of this Code, within five years from the date of such commencement;

(b) in the case of an allotment of land made on or after the date of such commencement, within five years from the date of such allotment or lease.

22. The date of commencement of Code is 11.02.2016. Thus, even under the Code, the limitation was five years from the date of commencement, i.e. upto 11.02.2021, whereas the notices re-opening the proceedings were issued for the first time on 06.03.2024, much beyond the stipulated period.

23. As we have found that even on basis of undisputed facts, the proceeding for cancellation of allotments was beyond limitation, therefore the resultant order cancelling the lease is illegal and nonest in the eyes of law. In such a situation, we are of the opinion that declining relief to the petitioners and relegating them to other remedies to challenge the order passed during pendency of the writ petitions cancelling the allotment would be an empty formality and only result in unnecessary harassment and multiplication of proceedings. We, therefore, refrain from adopting such a course and declare the proceedings for cancellation of patta in pursuance of notice dated 06.03.2024 to be barred by time and thus, without jurisdiction. Accordingly, by way of ancillary relief, the said order is hereby quashed. Respondent no.5 is directed to pay compensation to the petitioners in terms of award dated 02.03.2023 within eight weeks from the date of communication of the instant order.

24. In the result, the petitions succeed and are **allowed**. As the petitioners have been subjected to unnecessary harassment and compensation has been withheld on a specious plea, which is evidently afterthought and unsustainable in law, therefore, the petitioners are held entitled to cost and damages, quantified as Rs. 25,000/- for each patta, to be paid by respondent no. 5, within four weeks from the date of communication of the instant order.

25. A copy of the order be kept on the file of each case.

(2025) 4 ILRA 670

ORIGINAL JURISDICTION

CIVIL SIDE

DATED: ALLAHABAD 16.04.2025

BEFORE

THE HON'BLE SHEKHAR B. SARAF, J.
THE HON'BLE DR. YOGENDRA KUMAR
SRIVASTAVA, J.

Writ C No. 31506 of 2023

Dr. Saba Sarif ...Petitioner
Versus
State of U.P. & Ors. ...Respondents

Counsel for the Petitioners:
Ms. Akansha Mishra

Counsel for the Respondents:
C.S.C.

Civil Law – Constitution of India, 1950 – Article 226 - Writ Petition – seeking a writ of mandamus – commanding the medical college (respondent no. 2) to release the petitioner's original documents – petitioner submitted a bank guarantee in compliance with a prior court order – respondent no. 2 released the original documents – however, court finds that - Rs. 5,00,000/- as security taken by the medical college under a bond was not

enforceable and also same was not in consonance with the public policy – held, relying on precedents from the Madhya Pradesh and Gujarat High Courts, the Court directed to the respondent no. 2 to refund the security deposit of Rs.5,00,000/- along with interest at the rate of 4% per annum from the date of payment, including the bank guarantee, within four weeks – direction issued accordingly – writ petition is disposed of.

Writ Petition Disposed of. (E-11)

List of referred Cases: -

1. Ruxmaniben Deepchand Gardi Medical College Vs Dr. Anshul Jain & ors.– Writ Appeal No. 757 of 2020,
2. Dr. Anshul Jain Vs St. of MP & ors.– Writ Petition No. 7982/2019,
3. Shitanshu Shekhar Manoharlal Vs St. of Guj. – P/STA/18840/2014.

(Delivered by Hon'ble Shekhar B. Saraf,
J.
&
Hon'ble Dr. Yogendra Kumar Srivastava,
J.)

1. Supplementary affidavit filed on behalf of the petitioner is taken on record. The supplementary affidavit reveals that in pursuance of the order dated 22.09.2023 passed by a coordinate Bench of this Court, the petitioner has filed the bank guarantee before the respondent no.2.

2. Upon submission of the bank guarantee, the respondent no.2 has released the original certificates/documents to the petitioner.

3. Counsel appearing for the petitioner submits that the respondent no.2 is still to refund the security deposit of