order dated 21.05.2025, which is being challenged alongwith the earlier order dated 08.07.2024.

31. The amendment application, could not have been allowed as the amendment relates back to the date of the election petition which fact was not even reverted in the order dated 08.07.2024. The said amendment also drastically changed the nature of the election petition; there being no such pleading in the initial election petition, the amendment could not have been allowed that too after the limitations for filing the petition had come to an end.

32. The argument of Shri Anupam Mehrotra founded on improper pleading in the petition and objections to the amendment application are self inflicting as all the arguments have been raised without filing a counter affidavit and thus, in absence of any pleadings, the same cannot even be agitated.

33. Order impugned dated 21.05.2025 further suffers from the procedural error inasmuch as after the amendment, a specific issue to that effect ought to have been framed, which is non-existent; the specific issue with regard to the inclusion of the name of the petitioner in the electoral roll could be tested only after framing of specific issue to that effect and after allowing the parties to lead evidence, which has not been done.

34. Thus, on these two grounds alone, present petition deserves to be ***allowed and is ordered accordingly.***

35. Orders dated 08.07.2024 & 21.04.2025 are hereby quashed.

(2025) 5 ILRA 576
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 12.05.2025

BEFORE

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

Writ C No. 5205 of 2025

M/s Ganpati Classic ...Petitioner
Versus
Union of India & Ors. ...Respondents

Counsel for the Petitioner:
Abhinav Jaiswal, Udit Chandra

Counsel for the Respondents:
A.S.G.I., J.N. Maurya, Ravi Prakash Singh, Somya Chaturvedi

A. Civil Law - Constitution of India,1950-Article 226-The petitioner challenged the recovery order dated 12.08.2024 and a consequential recovery notice dated 17.12.2024 issued by the Pollution Control Board without affording an opportunity of hearing or supplying inspection-related documents-violation of audi alteram partem-impugned order quashed-Authorities directed to furnish relevant documents, grant hearing and pass fresh reasoned order within eight weeks.(Para 1 to 8)

The writ petition is disposed of. (E-6)

List of Cases cited:

1. A.K. Kraipak Vs U.O.I., (1970) AIR (SC) Supreme court 150

2. St. of Ori. Vs Dr. Binapani Dei, (1967) AIR (SC) Supreme Court 1269

3. Swadeshi Cotton Mills Vs U.O.I. (1981) (SC) 51 Comp Cas 210

4. M/s Dharampal Satyapal Ltd. Vs Dy. Commr. of Central Ex., Gauhati (SC): (2015) 8 SCC 519

5. M/s Khandelwal Brother Vs Joint Chief Controller of Explosive, Agra (Alld.) (2024) 167 ALR 465

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

1. Heard Sri Udit Chandra, learned counsel appearing on behalf of the petitioner and Ms. Somya Chaturvedi, learned counsel appearing on behalf of Pollution Control Board.

2. This is a writ petition under Article 226 of the Constitution of India wherein the writ petitioner has made the following prayers:-

"(i). To issue writ order or direction in the nature of certiorari quashing the impugned recovery order dated 12.08.2024 and consequential recovery notice dated 17.12.2024 issued by Respondent no.2 (Annexure No.1 & 2 to this writ petition).

(ii). To issue writ of mandamus directing the respondent for calling for record.

(iii). to issue any other suitable writ, order or direction, which this Hon'ble Court may deem fit and proper.

(iv). To award cost of the writ petition in favour of the petitioner."

3. Upon hearing of the learned counsel appearing on behalf of the parties and perusing the material on record, it is clear that the impugned order dated August 12, 2024 was passed without granting opportunity of hearing to the petitioner. It is to be specifically noted that the petitioner has sought for an opportunity of hearing and, inter alia, also sought for several documents in relation to inspection report and analysis report but neither these documents were provided to the petitioner nor any opportunity of hearing was granted to the petitioner.

4. To buttress his arguments, learned counsel appearing on behalf of the petitioner has relied upon judgments of the Apex Court in the cases of **A.K. Kraipak v. Union of India, (SC) 1970 AIR Supreme Court 150; State of Orisa v. Dr. Binapani Dei, (SC) : 1967 AIR Supreme Court 1269; Swadeshi Cotton Mills v. Union of India (SC) 1981 (51) Comp Cas 210; M/s/ Dharampal Satyapal Ltd. v. Deputy Commissioner of Central Excise, Gauhati (S.C.) : 2015 (8) SCC 519** as well as the judgment passed by this Court in **M/s Khandelwal Brother v. Joint Chief Controller of Explosives Agra, (Allahabad) 2024 (167) ALR 465.**

5. One may rely on the judgement passed by this Court in the case of **M/s Khandelwal Brother (Supra)** wherein the coordinate Bench has held as follows :-

"8. In our view, the principle of audi alteram partem has been bedrocked in the quasi judicial decision taken by the State and/or its instrumentalities acting on behalf of the State. In a situation wherein no opportunity of hearing is granted to the affected parties, there is obviously a breach of principles of natural justice and prejudice is caused to the party who has not been heard. In the present case, the violation of principles of natural justice has directly resulted in prejudice to the petitioner, and accordingly, we are of the view that the action taken by the Respondent No.1 is not correct. A catena of Hon'ble Supreme Court judgments and

judgments of this High Court have held that even though the statute/rule do not provide for a specific opportunity of hearing to be granted, when there are civil consequences affecting a party, the right approach is to grant an opportunity of hearing to him."

6. In light of the same, the impugned order dated August 12, 2024 is quashed and set aside with a direction upon the authorities to provide the documents they are relying upon, grant an opportunity of hearing to the petitioner, and thereafter, pass a reasoned order within a period of eight weeks from date.

7. We make it clear that once the relied upon documents are provided to the petitioner, he would not seek any adjournment on the date of personal hearing.

8. With the above directions, the writ petition is disposed of.

(2025) 5 ILRA 578
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: LUCKNOW 16.05.2025

BEFORE

THE HON'BLE RAJAN ROY, J.
THE HON'BLE OM PRAKASH SHUKLA, J.

Writ C No. 7005 of 2023
With other connected cases

Abbas Ansari ...Petitioner
Versus
State of U.P. & Ors. ...Respondents

Counsel for the Petitioner:
Shobhit Mohan Shukla, Abhishek Khare, Manoj Kumar Chaurasiya, Mudit Agarwal, Mohd. Aslam Khan, Nitesh Kumar Mishra, Vatsala Singh, Vivek Singh

Counsel for the Respondents:
C.S.C., A.S.G.I., Dilip Kumar Pandey, Gaurav Mehrotra, Harsh Vardhan Mehrotra, Maria Fatima, Namit Sharma, Santosh Kumar Tripathi, Shailendra Singh Chauhan

Civil Law - U.P. Tenancy Act, 1939 - Applicability - Scope - The Act, 1939 applied to Agra and Oudh regions in respect of agricultural tenancies and connected matters - Act, 1939 stood repealed only in areas where Zamindari was abolished under the U.P. Zamindari Abolition and Land Reforms Act, 1950 (rural areas) and the U.P. Urban Zamindari Abolition and Land Reforms Act, 1956 (urban areas) — In areas. Rural or urban, where Zamindari was not abolished (Non-Z.A. lands), the Act, 1939 continues to apply - Nothing in the Act, 1939 excludes its operation merely because the land falls within a Municipality, Town Area or Cantonment, and if such land answers to the definitions of "land" [S. 3(10)], "holding" [S. 3(7)] or involves "improvements" [S. 3(8)], the Act, 1939 governs it — Khataunis and Khewats of Non-Z.A. lands are prepared under the U.P. Land Revenue Act, 1901 and Land Records Manual, but tenancy/tenure rights are determined under the Act, 1939 — In present case, Plot No. 93, Jiamau, Lucknow, though within municipal limits since 1912, had for decades been treated as Non-Z.A. land, khataunis prepared from 1359 Fasli onwards, entries never challenged. In absence of requisite pleadings and proof, Court in writ jurisdiction cannot record finding that land in question ceased to be "land" or "holding" under Act, 1939 merely because it was part of municipal limits in relevant Faslis. (Para 25 - 53)

B. U.P. Land Revenue Act, 1901 - U.P. Revenue Code, 2006 - Section 230 - Repeal - Section 230 of the Code, 2006 repeals the enactments specified in the First Schedule thereof which includes ZA Act, 1950, the Urban ZA Act, 1956 and the Act, 1901 - Saving under Section 230(2)©, repeal of such enactments shall not affect any other enactment in which such enactment has been applied incorporated or referred to. *Held :* Act, 1901 having been applied and referred to in Act, 1939, repeal of Act, 1901 by Section 230 of Code, 2006 does not affect its applicability in view of saving