HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 38509 of 2023

Shiv Narayan Tiwari

.....Petitioner(s)

Versus

State of U.P. and 7 others

.....Respondent(s)

Counsel for Petitioner(s)	:	Dhananjay Kumar Thakur, Mahendra Singh, Manoj Kumar Maurya, Rajesh Kumar Dubey
Counsel for Respondent(s)	:	C.S.C, Prashant Kumar Tripathi

Court No. - 4

HON'BLE KSHITIJ SHAILENDRA, J.

Ref:- Civil Misc. Amendment Application No.4 of 2024.

1. Heard learned counsel for the petitioner.

2. By means of this application, order dated 12.08.2023 has been sought to be challenged with certain more averments.

3. Considering the nature of challenge, which is contained in the writ petition and the averments made in the affidavit, this application deserves to be allowed.

4. The application is **allowed**.

5. Necessary amendments be incorporated in the body of the petition by counsel for the petitioner within t**wo weeks**.

Order on writ petition.

6. Heard learned counsel for the parties.

7. In the present case, following order was passed on 05.01.2024:-

> "1. Pursuant to the previous order of this Court, learned Additional Chief Standing Counsel has placed instructions furnished by Sub-Divisional Officer, Deoria Sadar, which are taken on record.
>
> 2. On the directions of this Court, a complete set of instructions has been served upon the learned counsel for the petitioner in Court today.

3. This petition has been filed seeking a writ of mandamus commanding the Collector, District Deoria to inspect the file of Case No.8403 of 2022 (Computerized Case No. T202205200108403) (Shiv Narayan Vs. State, under Section 31/32 of U.P. Revenue Code, 2006 thoroughly in which two final orders on the same file were passed on 17.08.2023 and take appropriate action against the persons responsible for the same.

4. The instructions that have been furnished to this Court reveal that the stand of the Sub-Divisional Officer, namely, Sri Yogesh Kumar Gaur is that two different orders were passed on 17.08.2023 in the same case, however, one order which could not be signed was erroneously uploaded on the website of Board of Revenue, i.e. R.C.M.S. portal but, later on, the same was deleted from the website and a different order of the same date was released.

5. Both the orders dated 17.08.2023 have been annexed to the petition. One is photostat copy obtained from the concerned website which obviously could not contain signature of the Sub-Divisional Officer concerned and the other is a certified copy of the order dated 17.08.2023. Both the said orders were passed in the same case for correction of entries and on perusal of the same, the Court finds that they are exactly in contrast to each other, that is to say that in one of the orders, the claim of the petitioner Shiv Narayan Tiwari has been accepted and direction for correction of entries has been issued, whereas in the second order of the same date, the petitioner's case has been dismissed on merits recording finding that there is no justification to correct entries.

6. The instructions are also to the effect that an inquiry has been set up in the matter and Additional District Magistrate (Finance and Revenue) has been designated as the Inquiry Officer.

7. The Court has perused the Annexure No.4 attached to the instructions, according to which, the Additional District Magistrate (Finance and Revenue) has been designated as an Inquiry Officer to issue a charge-sheet and conduct inquiry, however, the alleged culprits of the aforesaid discrepancy have been described as Sri Chandra Bhan Chaurasiya (Reader) and Sri Harendra Pal (Revenue Ahalmad) working in the office of Sub-Divisional Officer. There is no mention in the said document that any inquiry has been set up against officer concerned, i.e. Sri Yogesh Kumar Gaur, Sub-Divisional Officer.

8. This Court can take judicial notice of the fact that no order can be uploaded on or deleted from the concerned website without directions or knowledge of the officer concerned. Further, neither a Reader of the Court nor Revenue Ahalmad can have any role in pronouncing two different orders on merits in the same case. At the most, their duties/ responsibilities can be confined to ministerial/ administrative work but certainly not to exercise judicial/ quasi judicial function.

9. The nature of two orders filed along with the writ petition is sufficient to convince this Court that a detailed inquiry is required to be conducted in the matter against Sri Yogesh Kumar Gaur, Sub-Divisional Officer and merely because an inquiry has been set up against the Reader and Revenue Ahalmad and the Additional District Magistrate (Finance and Revenue) has been nominated as the Inquiry Officer, the same would not be sufficient to subserve the ends of justice and if the officer is found involved in passing two different orders on merits in the same case, the matter becomes very serious requiring stern disciplinary action against the officer.

10. In view of the above, following directions are issued:-

(i) The Collector, Deoria shall call upon Sri Yogesh Kumar Gaur, who was posted as Sub-

Divisional Officer, Deoria on 17.08.2023, to submit his written defence before the Collector **on or before 31.01.2024**.

(ii) The Collector shall also call upon the Additional District Magistrate (Finance and Revenue) to submit his report in the matter **within the same time**.

(iii) The Collector, on the basis of aforesaid defence and report, shall prepare his own independent report **by the end of February, 2024** and shall forward the same to the Principal Secretary (Revenue), U.P. Government, Lucknow.

(iv) The Principal Secretary (Revenue), U.P. Government, Lucknow shall set up a high level inquiry in the matter and shall ensure that said inquiry is completed strictly in accordance with law, after providing full opportunity of hearing to the persons concerned, **by the end of May, 2024**.

(v) The copy of the inquiry report shall be placed before this Court along with an affidavit of Collector, Deoria on the next date fixed.

(vi) The Registrar (Compliance) of this Court shall immediately send a copy of this order to the Collector/ District Magistrate, Deoria.

11. **Put up as fresh before appropriate Bench on 01.07.2024**. "

8. Thereafter, a counter affidavit was filed by opposite party No.2 annexing therewith alleged compliance of the order of this Court. *Inter se* departmental communications were held and then, an inquiry report came in existence wherein the issue of uploading unsigned order passed by Yogesh Kumar Gaur, the then Sub Divisional Officer was discussed and it was found that Bench Secretary namely Chandra Bhan Chaurasia was held guilty of uploading the unsigned order. As regards the Sub-Divisional Officer namely Yogesh Kumar Gaur, it was indicated that he was negligent in ensuring that unsigned order was uploaded and not the signed order; consequently, recommendation was made to initiate appropriate proceedings against him.

9. The aforesaid report is dated 28.06.2024 and concluding portion thereof indicates that a system is being developed whereby the orders which are issued by the Presiding Officers and are digitally signed by the Bench Secretaries, should be uploaded within time on the concerned portal.

10. As to what has happened after 28.06.2024 is not on record.

11. Learned Standing Counsel seeks time to bring on record the

proceedings held after 28.06.2024.

12. At this stage, it is apparently clear that State Government has recorded its satisfaction regarding alleged negligence of Mr. Yogesh Kumar Gaur, the then Sub Divisional Officer and has recommended certain departmental proceedings against him, nature whereof is not known. It is further apparent that uploading of unsigned order by the Bench Secretary of the said officer is being treated as negligence on the part of officer, and a serious guilt on the part of Bench Secretary-Chandra Bhan Chaurasia.

13. The Court records its serious displeasure and anguish in the manner in which the State Government has dealt with this matter.

14. It has already been recorded in the order dated 05.01.2024 that initially instructions were furnished by learned Standing Counsel indicating that Revenue Ahalmad was negligent in the act of uploading of the unsigned order, however, the fact as to how two orders in the same matter; one allowing the proceedings and the other dismissing the proceedings, were passed on the same date by the same Officer, is not explained at all.

15. The Court can understand that without ensuring signatures on a particular order, the Bench Secretary or other staff might have uploaded the order on the portal, however, neither the Bench Secretary nor the Stenographer has any role in contents of the order, i.e. to say as to whether the case has been allowed or dismissed, and their job is only to finalize what has been dictated by the officer concerned.

16. Even if unsigned order was uploaded on the requisite portal and, thereafter, the signed order was uploaded, the very fact that two orders operate exactly in contrast to each other i.e. one passed in favour of the litigant and the other against him, the matter is not of negligence on the part of the officer, rather it is clear case where two orders were prepared by the officer so as to advance favour to one party and disfavour to other. This very admitted fact of the case reflects that there is something more than a sheer negligence.

17. In view of the above situation, the Court is not satisfied with the

inquiry report forming part of the counter affidavit.

18. The **Principal Secretary, (Revenue Department), Government of U.P.** is directed to file his personal affidavit in the matter annexing therewith the departmental proceedings held uptill now in the matter and further making stand of the Government clear in terms of its "ZERO TOLERANCE POLICY" against corruption.

19. As the Court is not satisfied with the steps taken by the Government against the officer concerned, further orders shall be passed based upon what is brought on record before this Court, as directed.

20. List this case on **24.08.2026** at **02:00 PM**.

(Kshitij Shailendra,J.)

July 20, 2026
Jyotsana