NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 2627-2628 OF 2012

KAMAL AND OTHERS ....APPELLANT(S)

VERSUS

GAJRAJ AND OTHERS ...RESPONDENT(S)

WITH

CIVIL APPEAL NO(S). 2604-2605 OF 2012

CIVIL APPEAL NO(S). 6486-6487 OF 2012

J U D G M E N T

Rastogi, J.

1. The instant appeals are directed against the judgment dated 12th August, 2010 followed with the Order dismissing the review petition dated 12th October, 2011.

2. The brief facts of the case which manifest from the record are that the present appellants are the applicants to whom land was

allotted after going through the procedure prescribed under the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950(hereinafter being referred to as "the Act") on the recommendations made by the Land Management Committee of Village Phaleda in its meeting held on 20th July, 1996. The allotment was finally confirmed by the Sub-Divisional Magistrate, Khurja vide its acceptance dated 6th April, 1997 which came to be affirmed on the dismissal of a revision petition filed at the instance of one of the complainants, who although had no locus standi and was not an allottee by the Additional Commissioner, Meerut Division, Meerut in exercise of power under Section 333 of the Act by order dated 31st March, 2008.

3. That order of the Additional Commissioner, Meerut Division, Meerut came to be set aside by the High Court on a writ petition filed by a stranger to the proceedings, Gajraj, who was the original complainant, questioning the allotment made to the appellants on the premise that under Rule 176(4) of the Uttar Pradesh Zamindari Abolition and Land Reforms Rules, 1952(hereinafter being referred to as "the Rules"), the decision was to be taken by the competent

authority on the recommendations made by the Land Management Committee within one week of its receipt from the Chairman and eight months had been consumed by the authority for granting final approval which was in violation of Rule 176(4) of the Rules.

4. Accordingly, while setting aside the order of the Additional Commissioner, Meerut Division, Meerut dated 31st March 2008, and the Additional Collector(Finance & Revenue) dated 30th September, 2006, the High Court remitted the matter back to the authority to examine the same afresh in accordance with law by Order dated 12th August, 2010 which is the subject matter in appeals before us.

5. The relevant extract of the allotments of piece of land made on the recommendations of the Land Management Committee of Village Phaleda in its meeting held on 20th July, 1996 is as under:-

	.....Upon hearing the details of the above land, the Land Management Committee has also decided, to the effect that, those persons who will avail allotment in Village Phaleda Bangar, will be allotted land area, admeasuring 0.506 hectares, while those who avail allotments in Village Sultanpur Phaleda Bangar, will be accordingly allotted land area, admeasuring 0.253 hectares. Then the Lekhpal, has been asked, to the effect that, he ought to accordingly affect allotments of lands standing mentioned, in the contents of the concerned list of eligible candidates, which as a matter of fact, has been prepared by the Village Pradhan and members of the Land Management Committee. This list of all eligible persons, has been read-over, before this Land Management	

	Committee, whereupon some deliberation has taken place in the said behalf and finally it had been passed, through consensus voice, with this observation that, the said list has been duly prepared, in a true and correct manner, because members belonging to the Schedule Caste, remaining in possession of agricultural land area, admeasuring less than $3^{1/8}$ acres, are also included, in the said list. Agricultural allotments, have been affected, in the following manner:-	

S.No.	Name, Parentage and address of allottee	Caste	Khasra No.	Area in Hectares	Land revenue in Rs.	Details
1	2	3	4	5	6	7
1.	Mahendra, son of Sohan Singh, resident of the village	Jatav	39/6	0.253	12.50	
...	...	...	...	...	...	...
110	Shankar, son of Harchandi, resident of the village	Brahmin	324/15	0.506	12.50	

The contents of the aforesaid agricultural allotment have been read-over to the members of the Land Management Committee as well as the public at large and then a dispute has arisen in between the members of the Land Management Committee and the general public. Thereafter it has been decided, to the effect that, the resolution had been correctly moved and is true in nature. All members present have accordingly supported the above resolution and resultantly the same has been adopted and passed. Then Village Pradhan Smt. Vimlesh had directed the Lekhpal to accordingly prepare the requisite file pertaining to this resolution and the said file be analogously forwarded to the Sub-Divisional Magistrate Khurja for the purposes of seeking and obtaining his concurrence and approval of this adopted and passed resolution. This matter ought to be tabled for confirmation in the next meeting of the Land Management Committee. Thus the above resolution has been happily adopted and passed.

6. The relevant part of the proposal for allotment in favour of 110 persons which was finally approved by the competent authority and that reveals from the minutes of the meeting held on 6th April 1997 is as follows:-

> The Sub-Divisional Magistrate, Khurja.
>
> Sir,
>
> I have perused the annexed file pertaining to allotments having been since affected in Village Phaleda. In the contents of the same, allotments had since been affected in favour of 110 persons out of whom 7 individuals belong to the Schedule Caste, 3 belong to the Backward Classes, while the remaining are belonging to the general category. From the photostat copy of allotment proceedings remaining annexed in the contents of the said file, it is amply clear, to the effect that, out of 166 persons belonging to the Schedule Caste in the village since previously, none of them being eligible remains to be accordingly allotted land in their favour. In connection with the legality of the eligibility-list, resolution, agenda and Munadi [open declaration by beating of drums] the area Revenue Inspector and the area Lekhpal had accordingly recorded their separate and distinct reports herein upon conducting due and proper enquiries in the said behalf, in this matter. They had also recorded the statements of various individuals. The proposed land to be given away in allotments stands recorded as that being Naveen Parti and barren in the contents of category 5(1) and 5(3) thereof, while it is stated that the same stands independent of any dispute whatsoever at the spot. Thus in this manner, on the basis of the report of the Revenue Inspector and Lekhpal, recommendation is hereby submitted for approving the said allotment proposal."

7. The allotment made by the competent authority came to be challenged in a Suit No. 12 of 2004 under Section 198(4) of the Act and after appraisal of record that was dismissed by an Order dated 30th September, 2006 by Additional Collector(Finance & Revenue), Gautam Budh Nagar and further revision came to be preferred under Section 333 of the Act was dismissed by Additional Commissioner, Meerut Division, Meerut by Order dated 31st March, 2008.

8. That became the subject matter of challenge at the instance of the complainant Gajraj who was completely a stranger having no locus standi in reference to the allotments made by filing of a writ petition before the High Court under Articles 226 and 227 of the Constitution of India.

9. Learned Single Judge of the High Court, although has not travelled to the facts of the case and has not bothered to examine as to whether there is an error in the decision-making process adopted by the authorities while making allotment of land to the landless persons after it was examined at two stages by the Additional Collector(Finance & Revenue) and Additional Commissioner, Meerut

Division, Meerut under its orders dated 30th September 2006 and 31st March, 2008 and proceeded on the premise that the competent authority has to take a call to grant approval to the Resolution passed by the Committee within one week of its receipt from the Chairman and it took eight months' time to grant approval to the recommendations made by the Land Management Committee which was in violation of Rule 176(4) of the Rules and accordingly by judgment dated 12th August, 2010 remitted the matter to the authority to be decided afresh. Later review also came to be dismissed by an Order dated 12th October, 2011.

10. Learned counsel for the appellants submits that no error was pointed out in the decision-making process adopted by the State authorities in making allotment of piece of land and so far as the delay which has been caused by the competent authority in granting approval is concerned, it is not within the domain of the appellants, as such, they cannot be saddled with heavy costs for which they were never at fault and it cannot be attributed to them.

11. At the same time, Rule 176(4) indeed indicates that the decision has to be taken by the competent authority on the

recommendations of the Land Management Committee within a week of its receipt but its non-compliance would not invalidate the proceedings and it does not contain any consequential effect if the authority fails to exercise its power within time-frame of one week as stipulated under Rule 176(4). In the given circumstances, the Order passed by the High Court is legally unsustainable in law and passing the order to remit the matter back to the authority even otherwise is not going to overcome the delay which was caused by the competent authority in granting approval to the recommendations made by the Land Management Committee.

12. Learned counsel further submits that the allotment made on the recommendations of the Land Management Committee has been examined at two stages, first, in a suit filed before the Additional Collector under Section 198(4) of the Act and no error/fault was pointed out in the decision-making process by the authority in making allotment of the piece of land to the present appellants. That came to be further examined in the revisional jurisdiction by the Additional Commissioner in exercise of its jurisdiction under Section 333 of the Act and after the matter has been examined at

different levels, no fault in the decision-making process has been pointed out and merely because the competent authority has failed to exercise its power within the period of one week as referred to under Rule 176(4), that in itself will not invalidate the proceedings and the Order passed by the High Court deserves to be interfered with by this Court.

13. Per contra, learned counsel for the State submits that it is true that there was delay caused by the competent authority in granting approval to the recommendations made by the Land Management Committee but in the absence of there being any fault pointed out or error being committed in the decision-making process in making allotment of piece of land to the individual applicants who are almost 110 in all, it is otherwise not in the interest of justice in remitting the matter back to the authority and nothing is left for the authority to now examine at this stage when allotment made on the recommendations made by the Land Management Committee has been looked into at two different stages by the respective competent authorities. To invalidate the proceedings in the absence of any statutory bar would not be in the interest of justice.

14. No one appeared on behalf of respondent no. 1 Gajraj who was the original petitioner and from the record it reveals that he was neither in the list of allottees nor was an applicant for consideration of allotment. Regardless of the fate of the allotment of the present appellants, at least respondent no. 1 Gajraj-the original petitioner is not going to lose but can defeat the rights of persons to whom allotment has been made on the recommendations made by the Land Management Committee after due process as contemplated under the scheme.

15. We have heard learned counsel for the parties and perused the material available on record.

16. Before we proceed to examine the matter any further, it will be apposite to take note of Rule 176 which is referred to as under:-

> "176(1) After selecting the person or persons for admission to the land in accordance with Rule 175, the Committee shall prepare-
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> (a) a list of persons so selected in Z.A. Form 57-B;
>
> (b) a certificate of admission to land in Z.A. Form 58; and
>
> (c) a counterpart in Z.A. Form 58-A.
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> (2) The documents referred to in clauses (a) and (b) of sub-rule (1) shall be duly signed by the Chairman of the Land Management Committee but the document referred to in clause (c) shall be signed by the person so selected for admission to the land.

(3) The document referred to in sub-rule (1) shall then be forwarded to the Assistant Collector-in-charge of the Sub-Division alongwith-

(a) a copy of the proceedings of the meeting of the Committee in which the decision to settle land was taken; and

(b) a certificate from the Lekhpal concerned to the effect that the particulars of the land mentioned in the list are correct and that the admission to the land is in accordance with the provisions of the Act and the Rules.

(4) The Assistant Collector in-charge of the Sub-Division shall, on receipt of the documents referred to in sub-rule (3); scrutinize the decision taken by the Committee and if he is satisfied that the decision of the Committee is in accordance with the Act and the rules made thereunder, he shall record his approval on the list in Z.A. Form 57-B and return the papers to the Land Management Committee within a week of its receipt from the Chairman with the direction that the possession may be delivered to the lessees and the report of the mutation be submitted to the Supervisor Kanungo by the lekhpal immediately after delivery of possession.

(5) If the Assistant Collector in-charge of the Sub-Division finds that the whole or part of the decision taken by the Committee is not in accordance with the provisions of the Act and Rules, he shall record his disapproval on the list in Z.A. Form 57-B and return the papers to the Chairman."

17. If we look into the scheme of Rule 176, it provides the procedure to be followed by the applicants who are entitled for allotment of land. Under sub-rule (1), a list of persons so selected have to fill their respective Form 57-B, Form 58 and Form 58-A. Sub-rule(2) refers to the documents which are required to be furnished by the individual applicant for the purpose of seeking allotment. Under sub-rule(3), such of the documents referred to in

sub-rule(1) have to be scrutinized and the decision taken by the Committee has to be examined by the Assistant Collector who has to record its satisfaction whether the decision of the Committee is in accordance with the provisions of the Act and the rules made thereunder and after recording his approval, further action is to be taken for allotment. If the decision taken by the Committee is not in accordance with the Act, the Assistant Collector is empowered to record its disapproval and return the papers to the Chairman.

18. The reference which has been made by the Assistant Collector under sub-rule (4) to grant appropriate approval within a week of its receipt appears to be introduced with an object to decide the matter in a time bound manner so that those persons who are landless or in whose favour the recommendations have been made after going through the process under provisions of the Act or the Rules framed thereunder, may not be deprived of the legitimate right which has been conferred upon them and the duty has been casted upon the authority to decide as expeditiously as possible, within one week stipulated thereunder, but if there is a delay either for Ministerial or administrative reasons, at least it cannot be attributed to the

allottee applicants. At the same time, if the authority has failed to exercise its power within the stipulated time of one week as referred to under Rule 176(4) of the Rules, at least it is inconsequential and will not invalidate the proceedings.

19. It is to be noticed that the recommendations made by the Land Management Committee after the approval being granted by the Assistant Collector have been examined by different authorities in exercise of power under Section 198(4) of the Act and later under its revisional jurisdiction under Section 333 of the Act and even before this Court, the respondents are unable to show that there is any error or illegality being committed in the decision-making process while the allotments were made in favour of the appellants allottees on the recommendations made by the Land Management Committee. In absence thereof, the authority competent, if has failed to exercise its power vested under Rule 176(4) within the time prescribed which is not within the ambit and control of the allottee applicants, at least they cannot be saddled with heavy costs for the inaction of the authorities in exercise of the power vested in it. In the absence of any provision to invalidate such proceedings, it is

inconsequential and there was no reason/justification to set aside those allotments made.

20. In our view, the High Court has not examined the matter in this perspective. At the same time, if the action has not been taken by the authority within one week as referred to under Rule 176(4), there is no consequential effect of its non-compliance. In the given circumstances, the High Court has committed a serious error in interpreting Rule 176(4) in the right perspective, and at the same time, setting aside the proceedings and remitting the matter back to the authority without any reason or justification. More so, no error has been pointed out in the decision-making process adopted by the authorities under the provisions of the Act or the Rules framed thereunder.

21. Consequently, the appeals deserve to succeed and are accordingly allowed. The judgment of the High Court dated 12th August, 2010 and the review order dated 12th October, 2011 are hereby set aside. No costs.

22. Pending application(s), if any, shall stand disposed of.

.....J.
(AJAY RASTOGI)

.....J.
(BELA M. TRIVEDI)

NEW DELHI;
FEBRUARY 14, 2023