

**HIGH COURT OF JUDICATURE AT ALLAHABAD****CRIMINAL MISC. WRIT PETITION No. - 2700 of 2026**

Anil Chaudhary

.....Petitioner(s)

Versus

State Of Uttar Pradesh And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Manish Kumar, Shivendra Raj Singhal
Counsel for Respondent(s)	:	G.A.

A.F.R.**Court No. - 73****HON'BLE SANDEEP JAIN, J.**

1. The instant writ petition under Article 226 of the Constitution of India has been filed for the following reliefs:

"(i) To issue a writ, order or direction in the nature of certiorari, quashing the order of the Commissioner dated 17.12.2025, to the extent, the case has been remanded back to the Additional District Magistrate Administration, District Aligarh for fresh adjudication along with the further proceedings initiated in pursuance of the order of the Commissioner."

2. Learned counsel for the petitioner submits that the proceedings under Section 3/4 of the U.P. Control of Goondas Act, 1970 were initiated against the petitioner by instituting Case No.2586 of 2024, Computerized Case No.D202418020002586 (State vs. Anil Kumar), on the basis of only two criminal cases i.e. Case Crime No.147 of 2021, under Sections 417, 420 I.P.C. and 6(2)(d) /9(1)/23 and 37 U.P. Regulation of Cold Storage Act, 1976 and Case crime No.148 of 2021 under sections 417, 420 I.P.C. and 6(2)(d)/9(1)/23 and 37 U.P. Regulation of Cold Storage Act, 1976. Learned counsel submitted that besides the above criminal cases, no other criminal case was taken into consideration by the State and the Additional District Magistrate (Administration), Aligarh vide order dated 25.09.2024 concluded that the petitioner does not fall within the category of Goonda defined under the Act, 1970, hence, a show cause notice dated 22.03.2024 issued to the petitioner was taken back and the proceedings was closed. Learned counsel further submitted that the order dated 25.09.2024 was not challenged by filing appeal by the State.

3. It was further submitted that again after a duration of about three months on 17.12.2024, fresh proceedings on the basis of Case Crime No.230 of 2021, under Section 420 I.P.C., Section 60(1) of U.P. Excise Act, 1910, P.S. Gonda, District Aligarh, Case Crime No.232 of 2021, under Section 2/3 of U.P. Gangsters and Anti-Social Activities (Prevention) Act, P.S. Gonda, District Aligarh, Case Crime No.269 of 2021, under Section 272, 273, 420, 467, 468, 471, 120-B, 304 I.P.C. and Section 60 (A) of U.P. Excise Act, P.S. Khair and Case Crime No.276 of 2021, under Section 272, 273, 420, 467, 468, 471 I.P.C. and Section 60 (A) of U.P. Excise Act, P.S. Khair, District Aligarh were initiated against the petitioner and by impugned order dated 01.11.2025 passed by the Additional District Magistrate (Administration), Aligarh, the petitioner was externed for six months from the limits of District Aligarh. This order was challenged by the petitioner by filing appeal being Case No.1782 of 2025, Computerized Case No.C202518000001782 (Anil Kumar vs. State of U.P.), under Section 6 of the U.P. Control of Goondas Act, 1970 before the Commissioner, Aligarh Division, Aligarh, which was partly allowed and it was concluded that the District Magistrate has passed contradictory orders, as such, the impugned order dated 01.11.2025 was set aside but the case was remanded back to the District Magistrate for deciding it afresh on merits after giving opportunity of hearing to the parties.

4. Learned counsel submitted that under the provisions of Section 6 of the U.P. Control of Goondas Act, 1970, there is no provision to remand the matter by the appellate authority. The appellate authority can either confirm the order, with or without modification or set it aside, and may, pending disposal of the appeal, stay the operation of the order but it cannot remand the matter back to the District Magistrate for deciding it afresh on merits after giving opportunity of hearing to the parties.

5. Learned counsel further submitted that as per the report of the DCRB, District Aligarh dated 05.03.2024, the petitioner has the criminal history of following 19 cases:-

i. Case Crime No.220/2021 under Section 272,273,420,467,468,471 IPC and 60(A) UP Excise Act, PS Akrabad, District Aligarh.

ii. Case Crime No.269/2021 under Section 272,273,304 IPC and 60(A) UP Excise

Act, PS Khair, District Aligarh.

iii. Case Crime No.143/2021 under Section 272,273,304 IPC and 60(A) UP Excise Act, PS Gabhana, District Aligarh.

iv. Case Crime No.147/2021 under Section 417,420 IPC, PS Gonda, District Aligarh.

v. Case Crime No.148/2021 under Section 417,420 IPC, PS Gonda, District Aligarh.

vi. Case Crime No.188/2021 under Section 272,273,304 IPC and 60(A) UP Excise Act, PS Jawon, District Aligarh.

vii. Case Crime No.70/2021 under Section 272,273,304 IPC and 60(A) UP Excise Act, PS Pisawa, District Aligarh.

viii. Case Crime No.276/2021 under Section 272,273 IPC and 60(A) UP Excise Act, PS Khair, District Aligarh.

ix. Case Crime No.165/2021 under Section 272,273,304 IPC and 60(A) UP Excise Act, PS Laudha, District Aligarh.

x. Case Crime No.370/2012 under Section 60 UP Excise Act, PS Gonda, District Aligarh.

xi. Case Crime No.80/2009 under Section 60,62,63,64 UP Excise Act, Section 102/103 Trademark Act and Section 255,259,260,272,273,467,468,471,419,420 IPC, PS Iglas, District Aligarh.

xii. Case Crime No.108/2009 under Section 2/3 Gangster Act, PS Iglas, District Aligarh.

xiii. Case Crime No.232/2021 under Section 2/3 Gangster Act, PS Jawon, District Aligarh.

xiv. Case Crime No.343/2021 under Section 2/3 Gangster Act, PS Khair, District Aligarh.

xv. Case Crime No.91/2021 under Section 2/3 Gangster Act, PS Pisawa, District Aligarh.

xvi. Case Crime No.232/2021 under Section 2/3 Gangster Act, PS Gonda, District

Aligarh.

xvii. Case Crime No.302/21 under Section 2/3 Gangster Act, PS Akarabad, District Aligarh.

xviii. Case Crime No.30/2021 under Section 420 IPC and 60(A) UP Excise Act, PS Gonda, District Aligarh.

xix. Case Crime No.250/2021 under section 120B,195,506 IPC, PS Gabhana, District Aligarh.

6. Learned counsel submitted that all the above cases relate to the year 2009, 2012 and 2021, prior and subsequent to it no criminal act has been committed by the petitioner. He further submitted that in the first proceeding initiated under the Act, 1970, only two criminal cases being Case Crime No.147 of 2021 and 148 of 2021, Police Station Gonda, District Aligarh were considered for initiating proceedings under Section 3/4 of the Act, 1970 whereas at that time also the petitioner was having a criminal history of the above 19 cases as mentioned in the report of DCRB, District Aligarh. Learned counsel further submitted that again the second proceedings under the Act, 1970 were initiated on 17.12.2024 whereby only four cases namely Case Crime No.230 of 2021, 232 of 2021 both of Police Station Gonda, District Aligarh, Case Crime No.269 of 2021 and Case Crime No.276 of 2021 both of Police Station Khair, District Aligarh were considered for initiating the proceedings under Section 3/4 of the Act, 1970 against the petitioner and by order dated 01.11.2025, the petitioner was externed for a duration of six months from the limits of District of Aligarh, which has been subsequently set aside by the Commissioner Aligarh Division, Aligarh by order dated 17.12.2025 but the matter has also been remanded back to the District Magistrate, Aligarh for considering it afresh on merits after giving opportunity of hearing to the parties.

7. Learned counsel submitted that it is apparent that the State has selectively decided to take up cases against the petitioner and has only mentioned two cases in the first round of litigation and only mentioned four cases in the second round of litigation whereas the State was aware of the criminal history of the accused whereby 19 criminal cases were

pending against him till the year 2021. Learned counsel submitted that the State cannot selectively decide to proceed against the petitioner by taking few cases and leaving the other and by repeatedly initiating proceedings against the petitioner under the Act, 1970, which only proves that the petitioner was politically prosecuted for the alleged acts. He further submitted that the petitioner has not been convicted in any case and he is on bail in all the cases. With these submissions, it was prayed that the order of remand is illegal and in view of this, the order of the appellate authority setting aside the impugned order of the District Magistrate dated 01.11.2025 be sustained and accordingly, the writ petition be allowed.

8. Per contra, learned A.G.A. submitted that from the documents annexed with the writ petition, it is apparent that the petitioner is having a long criminal history and till the year 2021, 19 criminal cases for different offences were pending against the petitioner, which is apparent from the report of DCRB, District Aligarh.

9. Learned A.G.A. submitted that in view of the long criminal history of the petitioner, it would be fair to assume that the petitioner is a Goonda, who has already been externed for a duration of six months by the District Magistrate, Aligarh by impugned order dated 01.11.2025. Learned counsel could not dispute that under Section 6 of the Act, 1970, there is no power to remand the case to the District Magistrate for deciding it afresh on merits.

10. I have heard learned counsel for the parties and perused the documents submitted with the writ petition.

11. It is apparent from the report of DCRB, District Aligarh that 19 criminal cases for different offences were pending against the petitioner till the year 2021 but only two cases being Case Crime No.147 of 2021 and 148 of 2021, Police Station Gonda, District Aligarh were chosen to initiate proceedings against the petitioner under Section 3/4 of the Act, 1970, which were ultimately dropped by the Additional District Magistrate (Administration), Aligarh, vide order dated 25.09.2024. It is further apparent that again after only a gap of about three months on 17.12.2024, a second round of proceedings under the Act, 1970 were initiated against the petitioner on the basis of only four cases being Case

Crime No.230 of 2021, 232 of 2021, both registered at Police Station Gonda, District Aligarh, Case Crime No.269 of 2021 and 276 of 2021, both registered at Police Station Khair, District Aligarh. It is apparent that all the 19 cases pending against the petitioner till the year 2021 were in the knowledge of the State at the time of initiating first round of proceedings under the Act, 1970 against the petitioner but 17 of them were deliberately not taken into consideration at that time. It is further evident that the appellate authority i.e. the Commissioner Aligarh Division, Aligarh has duly considered the above facts and vide impugned order dated 17.12.2025, it has specifically recorded that on the basis of same criminal cases, two contradictory orders could not have been passed by the District Magistrate, Aligarh.

12. In view of this contradictory stand of the District Magistrate, the appellate authority has set aside the impugned order of the District Magistrate dated 01.11.2025 and remanded back the matter to him for deciding it afresh on merits after giving opportunity of hearing to the parties.

13. Section 6 of the Act, 1970 reads as under:-

6.Appeal:-*(1) Any person aggrieved by an order made under section 3,section 4 or section 5 may appeal to the Commissioner within fifteen days from the date of such order.*

(2) The appellant or his counsel shall not be entitled to inspect or to be informed of any record which was not disclosed to him at the inquiry, if any, held under section 3.

(3) The Commissioner may either confirm the order, with or without modification, or set it aside, and may, pending disposal of the appeal, stay the operation of the order subject to such terms, if any, as he thinks fit.

14. It is apparent that Section 6 of the Act, 1970 only vests the appellate authority the jurisdiction to either confirm the order, with or without modification, or to set it aside but the appellate authority cannot remand the matter back to the District Magistrate for deciding it afresh on merits under Section 3/4 of the Act, 1970.

15. It is very much apparent that the appellate authority has exceeded its jurisdiction in remanding the matter back to the District Magistrate, since,

no such power has been vested in it and only on this short technical ground the appeal of the petitioner deserves to be allowed. The appellate authority has deemed appropriate to quash the impugned order of District Magistrate dated 01.11.2025, which is perfectly legal. It is beyond comprehension, if the petitioner was having a criminal history of 19 cases way back in the year 2021 why only 2 and 4 cases were considered for initiating proceedings under the Act, 1970 against the petitioner. Nothing had stopped the State from proceeding against the petitioner by taking all the above 19 cases into consideration, but the State has not chosen to do so.

16. It is further pertinent to mention here that after the year 2021, no criminal history of the petitioner has been brought to the knowledge of this Court. It is further apparent that the petitioner is on bail in all the above mentioned cases and has not been convicted in any criminal case to date. Therefore, the order of the appellate authority i.e. the Commissioner Aligarh Division, Aligarh remanding the matter back to the District Magistrate, Aligarh, is unsustainable and is liable to be set aside but the order of the appellate authority setting aside the impugned order dated 01.11.2025 is perfectly sustainable and is liable to be upheld.

17. In view of the above, the writ petition preferred by the petitioner deserves to be allowed and is accordingly, **allowed**.

18. Accordingly, the impugned order dated 17.12.2025 passed by the Commissioner Aligarh Division, Aligarh whereby the matter has been remanded back to the District Magistrate, Aligarh is set aside and the impugned order, whereby the order passed by the District Magistrate, Aligarh dated 01.11.2025 has been set aside, is upheld.

(Sandeep Jain,J.)

July 6, 2026

Jitendra