



2026:AHC:59862

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 780 of 2026

Satyapal And 2 Others

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Radhey Shyam Yadav
Counsel for Respondent(s)	:	C.S.C.

Court No. - 54

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. Radhey Shyam Yadav, learned Counsel for the petitioners and Mr. Rajesh Kumar Tiwari, learned Additional Chief Standing Counsel for the State- respondents.

2. The instant petition has been filed for the following relief:

"issue a writ order or direction in the nature of mandamus commanding and directing the respondent no.2 to decide the representation dated 4.6.2025 towards the cancellation of the notification under Section 4 (2) of U.P.C.H. Act dated 30.11.2024 of Village- Kharsoul, Tahsil- Shahbad, District- Rampur."

3. Learned counsel for the petitioner submitted that the petitioners have represented themselves before the authorities to stop the consolidation operation in the village in question as majority of the villagers are not interested for consolidation operation in the village.

4. Learned Standing Counsel for the State submitted that no interference is required as village has been notified under Section 4 of U.P. Consolidation of Holdings Act, 1953 (hereinafter referred to as "U.P.C.H. Act") on 30.11.2024.

5. I have considered the argument advanced by learned counsel for the parties and perused the records.

6. There is no dispute about the fact that the village in question has been brought under consolidation operation by way of notification issued under

Section 4 of U.P.C.H. Act on 30.11.2024.

7. Coordinate Bench of this Court in batch of cases, leading ***Writ Petition No. 337 of 1990 (Rajaram Ojha vs. Consolidation Commissioner, Lucknow & others) decided on 31.03.2014 reported in 2015 (126) RD 124***, has held that notification issued under Sections 4 & 6 of the U.P.C.H. Act are conditional legislation and the same cannot be challenged under Article 226 of the Constitution of India. Relevant paragraph nos. 8 & 9 of this judgment is quoted hereinunder :-

"8. Coming to the authorities cited on behalf of the State, it is appropriate to refer to the Division Bench decision of this Court in the Case of the Agricultural and Industrial Syndicate Limited v. State of U.P. 1976 RD 35. In this case it was held that the notifications issued either under section 6 of the U.P. Consolidation of Holdings Act are not in exercise of an executive function but a legislative function. This judgment records as follows "As already held, the notifications under section 4 and 6 of the Act are issued by the State Government in exercise of conditional legislative powers. It cannot be conceivably contended that this Court can issue a mandamus to the legislature to legislate on any subject or to apply any law to any area. It was observed by the Supreme Court in The State of Bihar v. Sir Kamleshwar Singh MANU/SC/8741/2006:-

"It cannot possibly have been intended that the legislature should be under an obligation to make a law in exercise of that power, for no obligation of that kind can be enforced by the Court against a legislative body." Similarly, this Court could not pass an order which would make it obligatory on the State Government to enforce the scheme of consolidation in an area where in its opinion such scheme should not be enforced. It would amount to compel the State Government to exercise its powers of conditional legislation."

9. The Second judgment relied upon by the State is *Dev Nath Kewat v. Deputy Director of Consolidation 1990 RD 175*. This judgment, relying upon the ratio laid down in the case of *Agricultural and Industrial Syndicate Limited (supra)*, has held as follows :--

"The scope of writ of mandamus is by now well settled that unless there is some denial of the statutory duty cast upon the State and authority and the State has refused to carry out the statutory duty, in that event writ of mandamus cannot be issued. In the instant case by refusing to issue notification under section 6(1) of the Act it cannot be said that the State Government has refused to carry out any statutory duty imposed upon it. In such matters no writ of mandamus can be issued. However, it is open to the petitioners to approach the State Government with their representation if so advised."

8. This Court in the case reported in **2016 (131) RD 478, Jasmit Singh Vs. State of U.P. and Others** has held that the Rule 17 of U.P.C.H. Rules is not mandatory.

9. This Court in the case reported in **2015 (128) RD 666, Dalip Singh and Others Vs. Vikram Singh and Others** has held that notification issued under Sections 4 (1) & 6 (1) of U.P.C.H. Act are legislative in nature.

10. Considering the ratio of law laid down by the Division Bench as well as Single Bench of this Court on the scope of Rule 17 of U.P.C.H. Rules as well as the scope of writ petition against the notification issued under Sections 4 & 6 of U.P.C.H. Act, no interference is required in the matter.

11. The writ petition is ***dismissed accordingly.***

12. No order as to costs.

(Chandra Kumar Rai,J.)

March 23, 2026

Rameez