



2026:AHK-LKO:19806

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 1002205 of 2015

Mukesh Kumar

.....Petitioner(s)

Versus

State Of U.P. Thru District Magistrate Raebareli
And Anr

.....Respondent(s)

Counsel for Petitioner(s)	: Rajendra Prasad Bhartia, Ashok Kumar Mishra, Bhim Shankar Mishra, Sapana Verma
Counsel for Respondent(s)	: C.S.C.

Court No. - 5

HON'BLE ALOK MATHUR, J.

1. Heard Ms. Mansi Singh, Advocate holding brief of Smt. Sapna Verma, learned counsel for the petitioner as well as learned Standing Counsel for the respondents.

2. It has been submitted by learned counsel for the petitioner that the land of Gata No. 2252, area 0.253 hectares was allotted in favour of one Punna Devi R/o Village Village - Semri, Pargana - Khero, Tehsil - Lalganj, District - Raibareilly.

3. It has been submitted by learned counsel for the petitioner that it is as per policy of the State Government where a person voluntarily undergoes sterilization she would be entitled for grant of Patta by the State. It is submitted that Punna Devi underwent sterilization and made an application for allotment of patta and after following due procedure, she was allotted patta on the land as recorded above.

4. It is further submitted that Punna Devi belong to Scheduled Caste category and had died on 20.10.1995. Immediately after her death, proceedings for cancellation of patta were initiated on the basis of revenue report, where it was alleged that Smt. Punna Devi had died prior to the grant of patta and consequently it was stated that patta was illegally granted in favour of a dead person. The proceedings for cancellation of patta under Section 198(4) of the U.P. Z.A. & L.R. Act were initiated by

the Additional Collector (Administration), Raibareilly and case was registered as State of U.P. Vs. Punna Devi and one Another. In the said case Punna Devi was made respondent no. 1 and the Land Management Committee was made respondent no. 2 and the Additional Collector (Administration) concluded the proceedings by means of order dated 29.03.2003, relying upon the report by which it was stated that Punna Devi had died prior to grant of patta in her favour and accordingly, cancelled the said patta.

5. Learned counsel for the petitioner at this stage has submitted that order dated 29.03.2003 was blatantly illegal and arbitrary inasmuch as the deceased Punna Devi was made respondent and it was clearly recorded in the said order that Punna Devi had died prior to allotment and consequently the allotment was cancelled.

6. It was stated that when the State was aware that Punna Devi had died then they should not have made Punna Devi a party and after service of notice, they should have proceeded for cancellation of patta. Husband of Punna Devi, Sri Sunder, when he came to know about the order dated 29.03.2003, filed an application for restoration, stating that he was never made party nor was he given any opportunity of hearing in the proceedings under Section 198(4) of the U.P. Z.A. & L.R. Act.

7. The application for restoration preferred by the husband of Punna Devi was rejected on 28.02.2006. Learned Counsel appearing for the State had opposed the application for restoration stating that undisputedly the applicant was never made party nor was he heard, but on behalf of State matter was argued on merits that it is not disputed that the lady allottee had died prior to allotment and it is for this reason that the Additional Collector (Administration) was persuaded by the merit of the case rather than considering the procedural necessities to recall the order passed against a dead person and accordingly, rejected the application for recall by means of order dated 28.02.2006.

8. In the aforesaid circumstances, order dated 28.02.2006 was challenged before the Additional Commissioner (Judicial), Lucknow and before whom certified copy of death certificate dated 20.10.1995 was duly

produced. It was stated that allotment of the land was made in the year 1993-94 and Punna Devi died subsequently on 20.10.1995 and it cannot be said that she had died prior to the said allotment.

9. The Additional Commissioner (Judicial)-II, while rejecting the revision relied upon the revenue report as well as spot inspection report wherein it was stated that statement of Gram Pradhan was recorded who stated that Punna Devi had died prior to the said allotment and accordingly rejected the revision.

10. Learned counsel for the petitioner has submitted that arbitrariness on the part of the State authorities is writ large from the bare perusal of the aforesaid facts. It was stated that firstly, proceedings for cancellation of the patta under Section 198(4) of the U.P. Z.A. & L.R. Act were initiated against a dead person and said allotment was cancelled. Since an application for restoration was filed where it was admitted that previous order dated 29.03.2003 was an ex-parte order which was passed without issuing notices or hearing any of the aggrieved parties, but still they declined to allow the application for restoration merely on account of the fact that as per revenue reports the lady namely Punna Devi died prior to the allotment of patta.

11. Surprising is also the order of the Additional Commissioner (Judicial) who without taking into account the death certificate dated 20.10.1995, chose to again rely upon the revenue report without even considering or taking judicial notice of death certificate dated 20.10.1995.

12. It is submitted that once respondents themselves have not opposed, challenged or disputed the death certificate dated 20.10.1995, then certainly date of death of Punna Devi is to be believed to be 20.10.1995 which is clearly subsequent to the date of allotment and very foundation of cancellation of Patta were non existing, illegal and arbitrary and it is for the above reasons that prayer for allowing the writ petition has been made.

13. Learned Standing Counsel on the other hand has opposed the writ petition but he does not dispute the aforesaid facts.

14. Considering the rival submissions it is noticed that there is no doubt that entire procedure adopted for cancellation of patta was illegal and arbitrary inasmuch as in the procedure adopted for cancellation no opportunity was given to the petitioner to participate in the said proceedings. Apart from the above this Court finds that order rejecting restoration application itself is grossly illegal and arbitrary inasmuch as, once authority has admitted the order dated 29.03.2003 was passed without giving opportunity of hearing to the petitioner, then certainly application for restoration ought to have been allowed and could not have been rejected merely because there was revenue report contrary to the statement made by the petitioner.

15. It is in the revisional proceedings when the revisional authority was confronted with the certified copy of the death certificate, which has also been annexed with the present writ petition, clearly indicates that Punna Devi died on 20.10.1995 itself and it cannot be said that she died prior to the date of allotment. From the aforesaid it is evident that on the aspect of procedure the respondents have acted in illegal and arbitrary manner and from the undisputed material on record it cannot be said that Smt. Punna Devi died prior to the allotment of Patta.

16. Accordingly, writ petition is **allowed** with cost of Rs.10,000/- to be paid by the State/District Magistrate, Raibareilly to the petitioner within two months from the date of production of certified copy of this order. . Impugned orders dated 29.03.2003, 28.02.2006 and 16.03.2015 are set aside.

17. The petitioner is entitled to be put in possession of the plot allotted to him. In case in the meanwhile said plot has been allotted to any other person, the District Magistrate, Raebareilly shall ensure that possession of the said plot is handed over to the petitioner forthwith within maximum period of two months from the date of production of certified copy of this order

(Alok Mathur,J.)

March 18, 2026

A. Verma