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**ALLAHABAD HIGH COURT (LUCKNOW BENCH)**

URMILA — Appellant

Vs.

COLLECTOR/DISTRICT DEPUTY DIRECTOR, CONSOLIDATION,  
FAIZABAD & ANR. — Respondent

( Before : S.N.Shukla, J )

Writ Petition No.564 of 2008 (Cons.)

Decided on : 24-09-2008

- Uttar Pradesh Consolidation of Holdings Act, 1953 - Section 48

**A. U. P. Consolidation of Holdings Act, 1953 — Section 3(4A), 3(4B), 48 — Rule 111 — Jurisdiction of District Deputy Director of Consolidation — Collector as District Deputy Director of Consolidation — Where no Joint/Deputy/Assistant Director of Consolidation is posted in a district for applications under Section 48, the application shall be presented to the District Deputy Director of Consolidation (Collector of the district) — An order by the Consolidation Commissioner authorizing a Deputy Director of Consolidation from another district to exercise jurisdiction over a particular district does not automatically extend to other linked districts unless explicitly stated — Therefore, the Collector of the district where no Deputy Director of Consolidation is posted retains jurisdiction to entertain revision applications. (Paras 6, 7, 8, 17, 18, 19, 21, 22)**

**B. Statutory Interpretation — Principle of "manner prescribed" — Where the manner of doing a particular act is prescribed by statute, it must be done in that manner or not at all — This principle is applicable to administrative law and the exercise of jurisdiction by courts — However, this principle must be applied in conjunction with other principles of interpretation, such as**

**purposive construction, to give effect to the object of the Act. (Paras 11, 12, 15)**

**C. U. P. Consolidation of Holdings Act, 1953 — Section 48 — Revision — "District Deputy Director of Consolidation" (Collector of the district) is authorized to entertain revision when a specific Joint/Deputy/Assistant Director of Consolidation is not posted in the district — The Act defines a "District Deputy Director of Consolidation" as the Collector of the district for the time being. (Paras 6, 7, 18, 21, 22)**

**JUDGMENT**

1. Heard Mr.M.A.Siddiqui, learned counsel for the petitioner and learned Standing Counsel for opposite party No. 1 as well as Mr. S. K. Mehrotora, learned counsel for opposite party No. 2.

2. The petitioner has challenged the order dated 1182008, passed by the Collector/District Deputy Director of Consolidation, Ambedkarnagar in Revision No. 8/1182008 raising the question of his jurisdiction to pass the said order.

3. The dispute relates to district Ambedkarnagar where there is no posting of Deputy Director of Consolidation particularly for territorial jurisdiction of district Ambedkarnagar. The revisions arising out of the order relating to the district Ambedkarnagar are preferred before the Deputy Director of Consolidation, Faizabad.

4. In the present case, learned counsel for the petitioner submits that since no Deputy Director of Consolidation is posted in district Ambedkarnagar, its jurisdiction is attached with the Deputy Director of Consolidation, Faizabad but in district Faizabad also there is no posting of Deputy Director of Consolidation, on account of which the Consolidation Commissioner, State of U. P., Lucknow by means of the order dated 12608 authorised Mr. Vipin Kumar Bajpai, Deputy Director of Consolidation, Basti to exercise the jurisdiction of the Deputy Director of Consolidation, Faizabad also. He further submits that since the appeal was decided by the Settlement Officer Consolidation, Faizabad/Ambedkarnagar on 18708 and the territorial jurisdiction of the Deputy Director of Consolidation, Faizabad is attached with Deputy Director of Consolidation Basti, the revision filed against the said order could have been decided by the Deputy Director of Consolidation, Basti, under the circumstances, he submits that the order passed by the Collector/District Deputy Director of Consolidation, Ambedkarnagar is without jurisdiction.

5. On the other hand, the learned counsel for the opposite party No. 2 urged that since there is no posting of Settlement Officer Consolidation to hear the appeal in district Ambedkarnagar, its territorial jurisdiction is attached with Settlement Officer Consolidation, Faizabad, who decided the appeal but in exercise of powers provided to him as Settlement Officer Consolidation, Ambedkarnagar and attachment of territorial

jurisdiction of Deputy Director of Consolidation, Faizabad with Deputy Director of Consolidation, Basti does not mean that the order passed in appeal by the Settlement Officer Consolidation in exercise of jurisdiction of district Ambedkarnagar, is revisable only by the Deputy Director of Consolidation exercising the territorial jurisdiction of revision relating to district Faizabad as in the district, the Collector exercises the power of District Deputy Director of Consolidation and there is no particular order/notification whereby the power of Deputy Director of Consolidation, Ambedkarnagar has been attached to other Deputy Director of Consolidation. Therefore, the Collector being District Deputy Director of Consolidation has right to entertain the revision and pass the order impugned.

6. To determine the question as to whether the Collector/District Deputy Director of Consolidation, Ambedkarnagar was authorised to pass the order impugned, some relevant provisions of the U. P. Consolidation of Holdings Act, 1953 and Rules framed there under are pertinent to be considered, which are as under:

"Section 3 (4A) 'Deputy Director, Consolidation' means a person appointed as such by the State Government to exercise such powers and perform such duties of the Director of Consolidation as may be delegated to him by the State Government and shall include a District Deputy Director of Consolidation and Assistant Director of Consolidation.

Section 3 (4B). 'District Deputy Director of Consolidation' means the person who is for the time being the Collector of the district;

Section 3 (9). 'Settlement Officer, Consolidation' means the person appointed as such by the State Government to exercise the powers and performs the duties of a Settlement Officer, consolidation under this Act or the rules made thereunder and shall include an additional Settlement Officer, Consolidation and Assistant Settlement Officer, Consolidation;

Section 42. Officer and Authorities. (1) The State Government may appoint such authorities and officers, and for such areas, as may be necessary, to give effect to the provisions of this Act.

(2) The District Deputy Director of Consolidation may, subject to such directions as the Director of Consolidation may issue from time to time, demarcate the circles to be assigned to Consolidation Lekhpals, Consolidators and other authorities appointed for the district under subsection(1).

Section 44. Delegation. The State Government may by notification in the Official Gazette, and subject to such restrictions and conditions as may be specified in the notification:

- (i) delegate to any officer or authority any of the powers conferred upon it by this Act; and
- (ii) confer powers of the Director of Consolidation, Deputy Director, Consolidation, the

Settlement Officer, Consolidation, and the Consolidation Officer under this Act or the rules made thereunder, on any officer or authority.

Section 48. Revision and Reference. (1) The Director of Consolidation may call for and examine the record of any case decided or proceedings taken by any subordinate authority for the purpose of satisfying himself as to the regularity of the proceedings, or as to the correctness, legality or propriety of any order other than an interlocutory order passed by the such authority in the case or proceedings, may, after allowing the parties concerned an opportunity of being heard, make such order in the case or proceedings as he thinks fit.

(2) Powers under subsection (1) may be exercised by the Director of Consolidation also on a reference under subsection (3).

(3) Any authority subordinate to the Director of Consolidation may, after allowing the parties concerned an opportunity of being heard, refer the record of any case, or proceedings to the Director of Consolidation for action under sub section (1)."

Rule 111. Section 48 and 54. An Application under Section 48 of the Act shall be presented by applicant or his duly authorised agent to the Joint/Deputy/Assistant Director of Consolidation, nominated by the Director of Consolidation, Uttar Pradesh for the District Settlement Officer (Consolidation) unit concerned or failing posting of any such Joint Deputy/Assistant Director of Consolidation in the district, to the District Deputy Director (Consolidation) within 30 days of the order against which the application is directed. It shall be accompanied by copy of the judgment or order in respect of which the application is preferred. Copies of judgment or order, if any, of other subordinate authorities in respect of dispute shall also be filed alongwith the application."

7. It is not in dispute that the State Government has conferred the powers of Director of Consolidation to the Deputy Director of Consolidation which includes the District Deputy Director of Consolidation and Assistant Director of Consolidation to exercise the powers provided under Section 48 of the Act, 'District Deputy Director of Consolidation' has been defined under Section 3 (4B) as the person who is for the time being the Collector of the district meaning thereby the Collector of the district under the provision of the Act is District Deputy Director of Consolidation also.

8. Under Rule 111, it has been provided that an application under Section 48 of the Act shall be presented by applicant or his duly authorised agent to the Joint/Deputy/Assistant Director of Consolidation, nominated by the Director of Consolidation, Uttar Pradesh for the District Settlement Officer (Consolidation) unit concerned or failing posting of any such Joint./Deputy/Assistant Director of Consolidation in the district to the District Deputy Director of (Consolidation).

9. Since the Consolidation Commissioner by means of the order dated 12608 has authorised Mr. Vipin Kumar Bajpai, Deputy Director of Consolidation, Basti to exercise

the jurisdiction of Deputy Director of Consolidation, Faizabad also, the learned counsel for the petitioner's contention is that for that purpose the district Faizabad and Ambedkarnagar is one, the jurisdiction of Deputy Director of Consolidation, Ambedkarnagar also goes along with that and accordingly, it is only the Deputy Director of Consolidation, Basti who was competent to exercise the jurisdiction of district Amedkarnagar.

10. The learned counsel for the petitioner also contended that since in both districts the Collectors are available to exercise the powers of District Deputy Director of Consolidation, there was no occasion to authorise the officer posted in Basti to entertain the matter, but it has been done so. Therefore, it is only the Deputy Director of Consolidation, Basti who was empowered to entertain the revision against the order passed by the Settlement Officer Consolidation, Faizabad/Amebedkarnagar.

11. Learned counsel for the petitioner submitted that if the manner of doing a particular action is prescribed under any statute, the act must be done in that manner or not at all.

12. In support of his contention, he cited the following cases:

(1999) 3 Supreme Court Cases 422 : (AIR 1999 SC 1281) Babu Verghese and others v. Bar Council of Kerala and others, relevant paras 31 and 32 are reproduced hereinunder.

Para 31. "It is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any statute, the act must be done in that manner or not at all. The origin of this rule is traceable to the decision in Taylor v. Taylor which was followed by Lord Roche in Nazir Ahmad v. King Emperor (AIR 1936 P.C.253) who stated as under:

"Where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all."

Para32 "Thus rule has since been approved by this Court in Rao Shiv Bahadur Singh v. State of V. P. (AIR 1954 SC 322) and again in Deep Chand v. State of Rajasthan (AIR 1961 SC 1527). These cases were considered by a three judge Bench of this Court in State of U. P. v. Singhara Singh, (AIR 1964 SC 358) and the rule laid down in Nazir Ahmad case was again upheld. This rule has since been applied to the exercise of jurisdiction by courts and has also been recognised as a salutary principle of administrative law."

13. Learned counsel for the opposite parties has relied upon a decision rendered in the case of AIR 1967 Supreme Court 903 (V 54, C 192), the State of Assam v. Ranga Muhammad and others, in which the word 'posting' has been defined in the manner that 'posting' must be obviously mean the assignment to a position or job and not placing in charge of a station or Court.

14. In the case of (2008) 5 Supreme Court Cases 176 : (AIR 2008 SC 1797), Karnataka State Financial Corporation v. N. Narasimahaiah and others, the Hon'ble Supreme Court has held as under:

"While interpreting the provisions of a statute, the court employs different principles or canons. To interpret a statute in a reasonable manner, the court must place itself in the chair of a reasonable legislator/author. Attempt on the part of the court while interpreting the provisions of a statute should, therefore, be to pose a question as to why one provision has been amended and the other was not? Why one terminology has been used while inserting a statutory provision and a different clause in another? It is well known that casus omissus cannot be supplied."

15. In the case of (2008) 5 Supreme Court Cases 257 : (AIR 2008 SC 1831) UCO Bank and another v. Rajinder Lal Capoor, the Hon'ble Supreme Court has held as under

"It is now a well settled principle of interpretation of statutes that the court must give effect to the purport and object of the Act. Rule of purposive construction should, subject of course to the applicability of the other principles of interpretation, be made applicable in a case of this nature."

16. Section 48 speaks that the Director of Consolidation may call for and examine the record of any case decided or proceedings taken by any subordinate authority.

17. Rule 111 speaks that failing posting of any such Joint/Deputy/Assistant Director of Consolidation in district the application under Section 48 of the Act shall be presented by applicant.

18. Section 3 (4B) speaks that the Collector of the district is the District Deputy Director of Consolidation for time being.

19. Indisputedly, no Deputy Director of Consolidation is posted in district Faizabad and Ambedkarnagar and in both districts the Collectors are available to exercise the jurisdiction of District Deputy Director of Consolidation.

20. The learned Additional Chief Standing Counsel has placed Circular Letter dated 27th May, 2008 issued by the Consolidation Commissioner, Uttar Pradesh to show the jurisdiction of Settlement Officer Consolidation as well as Joint/Deputy/Assistant Director Consolidation, from perusal of which it is evident that for the purpose of Settlement Officer Consolidation, district Faizabad includes Faizabad and Ambedkarnagar and for the purpose of Joint/Deputy/Assistant Director Consolidation, the district Faizabad includes Faizabad and Ambedkarnagar.

21. By means of the order dated 12608 the Consolidation Commissioner, State of U. P. Lucknow who is also the Director of Consolidation has nominated Shri Vipin Kumar Bajapai, Deputy Director of Consolidation, Basti to exercise the powers of Deputy Director of Consolidation, Faizabad also but it does not authorise him to exercise the powers of Deputy Director of Consolidation, Ambedkarnagar. No doubt the territorial jurisdiction of Settlement Officer Consolidation, Ambedkarnagar was exercised by the Settlement Officer consolidation, Faizabad, who entertained the appeal and decided the same but unless there

is specific notification to prefer the application under Section 48 of the Act before particular officer, it will go to the officer posted in district having territorial jurisdiction of the matter. Since there is no posting of Deputy Director of Consolidation in district Ambedkarnagar by virtue of provision of Rule 111, it will go to the District Deputy Director of Consolidation who is for the time being Collector of the district.

22. The order dated 12608 passed by the Consolidation Commissioner does not specifically authorised the Deputy Director of Consolidation, Basti to exercise the powers of Deputy Director of Consolidation, Amebkarnagar. Thus on the plain reading of the provisions of the Act and Rules as well as the letter dated 12608 issued by the Consolidation Commissioner, State of U. P., Lucknow it is obvious that the Deputy Director of Consolidation, Basti was not authorised to entertain the revision relating to the matter of territorial jurisdiction of district Ambedkarnagar and the Collector/District Deputy Director of Consolidation, Ambedkarnagar has rightly exercised the jurisdiction to entertain the revision.

23. Learned Additional Chief Standing Counsel has also produced the Misil Band register of revenue cases of the court district Collector Ambedkarnagar relating to revenue year 200708, after perusal of which I find that is not only the case which was entertained by collector but he has entertained several other cases under Section 48 of the Act, thus it cannot be said that he was interested to decide this particular case by himself.

24. In view of the aforesaid facts and circumstances of the case as well as law discussed hereinabove, I do not find any illegality in the order impugned.

25. The writ petition is hereby dismissed. No order as to costs.