

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6236 OF 2019
(a SLP (CIVIL) NO. 10926 OF 2018)

JAIRAM KUSHWAHA .. Appellant (s)

Versus

THE STATE OF UTTAR PRADESH & ORS. .. Respondent(s)

O R D E R

Leave granted.

Respondent No.4 was appointed as Anganbari Karyakarti in Village Badhara, Tehsil Rudrapur, District Deoria. She produced a certificate issued by the Tahsildar showing that her income was below the maximum limit which entitled her to claim appointment to the post of Anganbari Karyakarti. The said certificate was issued on 03rd July, 2010 showing her income as Rs.19,200/- per annum.

A complaint was made in which it was stated that the income certificate was issued without proper verification. Thereafter, an inquiry was conducted by the Tahsildar who submitted a report on 14th December, 2010 in which it was stated that the husband of Respondent No.4 was working in a medical store and is living separately from his father. A fresh inquiry was conducted by the Tahsildar on another complaint made by the Appellant. By the order dated 23rd

March, 2011, the Tahsildar found that the husband of Respondent No.4 was a doctor and the father in law of Respondent No.4 was having a pukka house. The Tahsildar directed cancellation of the income certificate which was issued in favour of Respondent No.4. The appeal filed by the 4th Respondent was dismissed by the SDO by an order dated 18th June, 2011 which was affirmed by District Magistrate on 25th January, 2016. Respondent No.4 approached the High Court challenging the cancellation of the income certificate. The High Court set aside the orders passed by the Tahsildar and the SDO dated 18th June, 2011 and 4th January, 2011 respectively and also the order passed by the District Magistrate dated 25th January, 2016 by which the order of the Tahsildar dated 18th June, 2011 was affirmed. The High Court was of the opinion that the husband of Respondent No.4 was working in a medical store and he was not a doctor as he did not have the qualifications to practice as a physician. The High Court held that the report submitted by the Tahsildar after physical verification failed to enquire about the patients who had been treated by the husband of Respondent No.4. The order passed in appeal by the District Magistrate affirming the order of the Tahsildar was found to be illegal by the High Court as it was a cryptic order without considering various points raised by Respondent No.4.

The order passed by the Tahsildar cancelling the income

certificate issued earlier was after conducting a physical verification. The order passed by the Tahsildar would disclose that there was an error in issuance of income certificate. This finding of fact, which was recorded by the Tehsildar after conducting a physical verification, ought not to have been reversed in judicial review. The High Court has also not referred to the other aspects except the fact that the husband of the 4th Respondent was working in a medical store.

Therefore, we set aside the order of the High Court.

The Appeal is allowed.

.....J.
(L. NAGESWARA RAO)

.....J.
(HEMANT GUPTA)

New Delhi,
Dated: August 09, 2019

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).10926/2018

(Arising out of impugned final judgment and order dated 12-01-2018 in WC No. 9384/2016 passed by the High Court Of Judicature At Allahabad)

JAIRAM KUSHWAHA

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

Date : 09-08-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO

HON'BLE MR. JUSTICE HEMANT GUPTA

For Petitioner(s) Mr. Manoj K. Mishra, AOR
Mr. Umesh Dubey, Adv.
Jyoti Mishra, Adv.
Mr. Sukumar, Adv.

For Respondent(s) Ms. Garima Prashad, AOR

Mr. Ghanshyam Singh, Adv.
Mr. Sonit Sinhmar, Adv.
Mr. Rajnish Kumar Jha, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the Signed Order.

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

(GEETA AHUJA)
COURT MASTER (SH)

(SUNIL KUMAR RAJVANSHI)
BRANCH OFFICER

(The Signed Order is placed on the file)