

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 6159 of 2025

Petitioner :- Abhay Vishvkarma

Respondent :- State Of U.P. Thru. Secy. Deptt. Of Home Lko. And 3 Others

Counsel for Petitioner :- Dilip Kumar Singh Chauhan, Brajendra Singh, Vikram Jeet Singh Rathore

Counsel for Respondent :- G.A.

Hon'ble Vivek Chaudhary, J.

Hon'ble Manish Kumar, J.

1. Heard learned counsel for the petitioner as well as learned A.G.A. for the State-respondents and perused the material available on record.

2. This petition has been filed by the petitioner seeking following main reliefs:-

"(i) Issue a Writ, order or direction in the nature of Certiorari quashing the impugned notice dated 25.06.2025 served to the petitioner issued by the opposite party no.2 under Section 3 of the U.P. Control of Goonda Act, 1970, Police Station Gangaghat, District Unnao;

(ii) Issue a writ, order or direction, in the nature of Mandamus commanding to the opposite parties not to give effect to the notice dated 25.06.2025 issued by the opposite party no.2."

3. Submission of learned counsel for the petitioner is that mentioning the general nature of material allegations against petitioner in the notice under Section 3 of the U.P. Control of Goondas Act, 1970 is mandatory. In the impugned notice, the same is not detailed and only F.I.R. number and Sections are mentioned in the show cause notice. Hence, the said notice is liable to be quashed.

4. The question what would amount to sufficient compliance of mentioning general nature of material allegation has been settled since long by a Full Bench (Three Judges' Bench) decision in the case of ***Ramji Pandey vs. State of U.P. and others***, 1981 ALJ 897, who has considered the said aspect of the matter in detail and held that there has to be more description than mere reference to F.I.R. Number and Sections, under which a person is charged. The said law holds good till date and the view settled has been affirmed by the decision of another Full Bench of Five Judges in the case of ***Bhim Sain Tyagi vs. The State of U.P. and others***, 1999 ALJ 1845.

5. There were large number of incorrect notices still being issued by the District Magistrates in the State and thus, a Division Bench of this Court while deciding Criminal Misc. Writ Petition No.12619 of 2023 "*Govardhan vs. State of U.P.*" by its judgement and order dated 10.8.2023 [Neutral Citation No.-2023:AHC:169934-DB] issued the following directions:

"14. In addition to above, there is mandatory requirement of the law, that if the executive authority is satisfied that the proceedings under Goonda Act spells out offences under clause (a), (b) and (c) of sub-Section 1 of the Act, he may issue notices to the particular "Goonda" informing him general nature of material allegations against him in clause (d) of the Act, his image among the masses, his nuisance value by which he is a potential threat to the peace and public order of the society at large.

15. But in the instant case, in the notice under challenge spells out the cases required against the petitioner which is allegedly issued on a "prescribed printed proforma" without application of mind by the executive authorities. Not only this, except enumeration of pending solitary case and a beat report, there is total lack of any judicial mind spelling out the general nature of material allegations against the petitioner, making entire impugned notice per se defective and cannot be acted upon any further.

16. We record our strong displeasure in such type of routine pasting of such provisions of the Uttar Pradesh Control of Goondas Act, 1970 and Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 in a most capricious and casual way.

17. At this juncture, learned A.G.A. stood up and informed the Court that in addition to the cases mentioned in the show cause notice, the petitioner is also involved in two-three more cases which do not find place in the show cause notice. This submissions advanced by the learned A.G.A. itself is amusing. This clearly indicates that one hand does not know what another hand is doing. All of a sudden learned A.G.A. woke up and revealed that in addition to two cases mentioned in impugned notices, the petitioner has got two more cases. The Court cannot take the judicial notice of those additional cases; we cannot permit this hide and seek practice with the proposed "Goonda" i.e. the petitioner.

18. Present matter is squarely covered by the aforesaid judgment and liable to be quashed. Accordingly, we are quashing the show cause notice dated 15.6.2023, issued by the Additional District Magistrate (Finance & Revenue), Aligarh, in Case No. 3400 of 2023, State Vs. Govardhan), under Section 3 of the Uttar Pradesh Control of Goondas Act, 1970, Police Station Chharra, District Aligarh.

19. Registrar General, High Court is directed to circulate the copy of this judgment apprising all the executive authorities of the State of U.P. to strictly adhere the ratio laid down mentioned above. Hence forth it is expected from the authorities that they would necessarily spell out 'general nature of particular allegations against the proposes Goonda', his personal image among the masses his social family background and then only pass a well reasoned order not on a prescribed proforma while issuing a show cause notice and thereafter a pass a well reasoned order of

externment, (if at all required and needed) by the said executive authorities concerned. All the District Magistrates and the executive authorities working under him are directed to take appropriate action hence forth and proceed against the individual where they have got a strong reason to believe that the individual is rogue to the society and his externment is a desirable.

20. As mentioned above, we are witnessing rampant misuse of the provisions of Uttar Pradesh Control of Goondas Act, 1970. There is no uniformity in the executive authorities of the districts of UP regarding applicability of this deterrent enactment causing unwarranted piling up of the cases, challenging the notices under this Act etc.

(A). Thus in this regard, it is directed that the State Government too would form a uniform guide lines regarding the applicability of this Act in the light of the above judgment.

(B). This guidelines must be framed latest by 31st October 2023 and shall be circulated among all the District Magistrates of the Districts, so that they may strictly adhere to those guidelines and there shall be Uniformity in the application of the provisions of Uttar Pradesh Control of Goondas Act, 1970.

21. With this direction, the writ petition stands allowed. The impugned show cause notice dated 15.6.2023 issued by the Additional District Magistrate (Finance & Revenue), Aligarh is hereby quashed. No order as to cost."

6. Despite such specific directions issued by this Court, still similar type of orders are being passed by the District Magistrate. Therefore, let the State Government file a counter affidavit within a period of ten days from today, detailing the directions issued and steps taken in furtherance of the directions issued by the Division Bench of this Court in **Govardhan** (supra).

7. List this case after four weeks.

8. Meanwhile, operation of the impugned show cause notice dated 25.06.2025 shall remain stayed. It shall, however, be open for the District Magistrate, in case he so desires, to issue a fresh show cause notice to the petitioner in accordance with law.

(Manish Kumar, J.) (Vivek Chaudhary, J.)

Order Date :- 14.7.2025

Praveen