

AFR

Neutral Citation No. - 2024:AHC:186548-DB

Reserved

Court No. - 40

Case :- WRIT - C No. - 28196 of 2023

Petitioner :- Manoj Kumar Yadav

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Alok Kumar Yadav, Vashistha Dubey

Counsel for Respondent :- C.S.C.

Hon'ble Shekhar B. Saraf, J.

Hon'ble Vipin Chandra Dixit, J.

1. Heard Sri Alok Kumar Yadav, learned counsel for the petitioner, Sri Gireesh Chandra Tiwari, learned Standing Counsel for the State respondents and perused the record.

2. This writ petition has been filed on behalf of petitioner for quashing of impugned order dated 20.7.2023 passed by respondent no.2, by which representation of petitioner claiming his professional fees was rejected as well as for payment of Rs.4,12,275/- along with 18% interest as professional fees for the cases wherein the petitioner represented Gaon Sabha of District Jaunpur.

3. The brief facts of the case are that the petitioner is a practising advocate before this Court since 2004. The petitioner was engaged/appointed as panel advocate to conduct the cases filed against the Gaon Sabha vide order dated 16.5.2013. The petitioner was authorized to receive notices and conduct the cases on behalf of Gaon Sabhas of Varanasi Division. The Varanasi Division includes districts Varanasi, Ghazipur, Jaunpur and Chandauli. The petitioner had worked with utmost sincerity and honesty. Unfortunately, the petitioner was removed from panel of Gaon Sabha on 27.12.2019. The petitioner raised his professional bills for the cases in which he represented the Gaon Sabha. The bills

pertains to Gaon Sabhas of District Ghazipur were cleared by the District Magistrate, Ghazipur after due verification and transferred Rs.3,55,350/- in the bank account of petitioner. Similarly the bills pertains to Gaon Sabhas of District Varanasi were also paid to the petitioner. Almost the bills of Gaon Sabhas of District Chandauli were paid and few bills remain unpaid and petitioner has been assured by the competent authority for payment of the same. So far as the District Jaunpur is concerned, in spite of repeated request the outstanding bills were not cleared by the respondent no.2. The petitioner had filed Writ-C No.34606 of 2021 which was disposed of by the Division Bench of this Court on 4.3.2022 directing the authorities concerned to consider the grievance of the petitioner. In spite of order dated 4.3.2022 no heed was paid by respondent no.2, then the petitioner had filed Civil Misc. Contempt Application No.3974 of 2022. After filing contempt petition, the respondent no.2 has passed the order on 15.10.2022 rejecting the claim of the petitioner merely on the ground that bills from Sl. No.1 to 39 are relates to fair price shop, enquiry against Pradhan, Lohia Awas, Gramin Awas, misappropriation of government funds, Anganbadi stipend, ration card and they are not relates to Gaon Sabha. The petitioner again approached to this Court by filing Writ-C No.35750 of 2022 and Division Bench of this Court while dismissing the writ petition vide order dated 21.2.2023 permitted the petitioner to approach the respondent no.2 for his grievances. The petitioner again approached to respondent no.2 by filing detailed representation on 6.3.2023 which was again dismissed by respondent no.2 by the impugned order dated 20.7.2023 relying his earlier order dated 15.10.2022.

4. It is submitted by learned counsel for the petitioner that the petitioner was appointed as panel advocate to conduct the cases on behalf of Gaon Sabha of Varanasi Division. The petitioner appeared in all the cases in which the Gaon Sabha of District Jaunpur was a party and notices were served to the petitioner. The petitioner did his professional work

with sincerity and with due diligence and assisted the Hon'ble Court in those matters.

5. It is further submitted that as per engagement/appointment letter, the petitioner was authorized to receive notices in all the cases in which the Gaon Sabha was impleaded as a party and also represent Gaon Sabha before the Hon'ble Court and as such is entitled for professional fees, as per norms. More so, the payment of professional fees relates to Gaon Sabhas of districts Varanasi, Ghazipur and Chandauli have already been paid by the authorities without raising any objection but his rightful claim has been arbitrarily denied by the respondent no.2. Lastly, it is submitted that from the perusal of impugned orders there is no allegation for non-appearance or not conducting the cases in proper manner have been levelled against the petitioner. The rightful claim was denied merely on the ground that in some of the cases the Gaon Sabha was not a contesting party and that matters were not related to Gaon Sabha directly.

6. On the other hand, learned counsel appearing on behalf of State submits that the claim of the petitioner has been sympathetically considered by the respondent no.2 and after it was found that the matters related to fair price shop, Lohia Awas, Prime Minister Awas, proceedings against Pradhan, family register, Aangabadi stipend and ration card were not related to Gaon Sabha and Gaon Sabha was impleaded as proforma party only and as such the petitioner was not entitled for any payment in the aforesaid matters.

7. Considered the submissions of learned counsel for the parties and perused the record.

8. From the bare perusal of engagement/appointment order dated 16.5.2023, it is apparent that the petitioner was appointed/engaged for Varanasi Division to appear on behalf of Gaon Sabha. The petitioner was authorized to receive notices and to appear on behalf of Gaon Sabha of Varanasi Division for all matters. The Varanasi Division includes districts

Varanasi, Ghazipur, Janpur and Chandauli. The relevant extract of engagement letter dated 16.5.2013 is reproduced hereunder:-

"महोदय,

उपर्युक्त विषयक शासनादेश संख्या-2180(2)/1-2-2009-10-3 (34)/93, दिनांक 02 सितम्बर, 2009 को अवक्रमित करते हुए शासनादेश संख्या-1505/1-2-2013-10-3 (34)/93 दिनांक 16 मई 2013 के क्रम में मुझे यह कहने का निदेश हुआ है मा० उच्च न्यायालय इलाहाबाद / लखनऊ बेंच लखनऊ के समक्ष स्तर से योजित होने वाले गांव सभा के सभी मुकदमों (रिट याचिकाओं / अपीलों आदि) में गांव सभा व अन्य की ओर से मा० न्यायालय में उपस्थित होने और पैरवी करने हेतु अधिवक्ताओं के मध्य निम्नानुसार कार्य का बटवारा किया जाता है:

क्र०सं०	अधिवक्ता (गांव सभा) का नाम	आवंटित मण्डल
1	श्री महेश नारायण सिंह	सहारनपुर
2	श्री अनुज कुमार	चित्रकूट
3	श्री धर्मदेव चौहान	देवीपाटन
4	श्री मनोज कुमार यादव	वाराणसी
5	श्री राम बाबू यादव	विन्ध्याचल
6	श्री बृज कुमार यादव	कानपुर
7	श्री दिवाकर सिंह	इलाहाबाद
8	श्री आनन्द कुमार यादव	झाँसी
9	श्री रमेश चन्द्र उपाध्याय	आजमगढ़
10	श्री अमरेश सिंह	बरेली
11	श्री योगेन्द्र नाथ यादव	लखनऊ
12	श्री राजेश यादव	मेरठ
13	श्री अरुण कुमार श्रीवास्तव	मुरादाबाद
14	श्री आशीष कुमार श्रीवास्तव	आगरा
15	श्री मनु सिंह,	अलीगढ़
16	श्री जय कुमार	बस्ती
17	श्री आजाद खान	फैजाबाद
18	श्री तारिका मकबूल खान	गोरखपुर

2- उक्त अधिवक्ताओं द्वारा पैरवी करने पर देय फीस गांव सभा के संचित कोष से वहन की जायेगी।

कृपया उक्त आदेशों से अपने नियंत्रणाधीन समस्त अधिकारियों को अवगत कराने का कष्ट करें।

भवदीय,

(किशन सिंह अटोरिया)
प्रमुख सचिव"

9. From bare perusal of engagement/appointment letter dated 16.5.2023, it is apparent that the petitioner was authorized to appear in all the cases (writ petitions/appeals) in which Gaon Sabha was a party. It is nowhere mentioned that petitioner was not required to appear in the cases which relates to fair price shop, Lohia Awas, Prime Minister Awas, proceedings against Pradhan, family register, Aangabadi stipend and ration card.

10. Since the petitioner was authorized to appear in all the cases where the Gaon Sabhas of district Jaunpur was a party and the copy of the writ petitions/appeals were served upon the petitioner and he appeared before the Court and assisted the Hon'ble Court in all the matters, he is entitled to receive professional fees.

11. Learned Standing Counsel has failed to point out any communication served upon the petitioner that petitioner was not required to appear on behalf of Gaon Sabha in the cases, which relates to fair price shop, Lohia Awas, Prime Minister Awas, proceedings against Pradhan, family register, Aangabadi stipend and ration card. Since the petitioner was authorized to receive notices in all the matters where the Gaon Sabha was a party and he appeared before the Court and assisted the Court, the petitioner is entitled for professional fees. The action of respondent no.2 in denying the professional fees to the petitioner is arbitrary and malafide. It may be noted that the professional fees for the district Varanasi, Ghazipur and Chandauli have already been paid to the petitioner for all

the cases in which he appeared on behalf of Gaon Sabha. In light of the same, the impugned order dated 20.7.2023 is liable to be set aside.

12. In view of above, the writ petition is allowed. The impugned order dated 20.7.2023 is set-aside. The respondent no.2 District Magistrate, Jaunpur is directed to re-consider the claim of the petitioner and pay the outstanding professional fees to the petitioner for the cases, where notices for Gaon Sabhas of District Jaunpur were served upon him and he represented the Gaon Sabha before the Court.

13. The writ petition is allowed accordingly.

Order Date :- 28.11.2024

Kpy

(Vipin Chandra Dixit, J.) (Shekhar B. Saraf, J.)