

HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No. 4514/2015-B

Date of decision: 29.04.2017

Makhan Singh

.....Petitioner

Versus

State of H.P. & Others

....Respondents

Coram:

The Hon'ble Mr. Justice Sanjay Karol, Acting Chief Justice.

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.

Whether approved for reporting?¹

For the petitioner : Mr. Ajay Sharma, Advocate

For the respondents : Mr. Shrawan Dogra, A.G. with
Mr. Anoop Rattan, Romesh Verma,
Addl.A.Gs. & Mr. J. K. Verma,
Dy.A.G.

Tarlok Singh Chauhan, J. (Oral)

This petition has been filed by the petitioner for setting-aside the order dated 1.1.2004/11.1.2004 passed by the Collector, Una, whereby according to him, the allotment of land made in favour of 43 persons including the petitioner under the H.P. Village Common Lands Vesting and Utilization Act, 1974 has been cancelled.

2. The respondents have filed reply, wherein it has candidly been admitted that the allotment made in favour of the petitioner and 43 other persons has not been cancelled and only the orders of mutations have

¹ Whether the reporters of Local Papers may be allowed to see the judgment?

been cancelled, in view of the following facts, which have emerged in the inquiry conducted by the District Revenue Officer, which reads thus:

"I. The then Patwari, Patwar Circle, Bangarh without any authority or jurisdiction unlawfully maintained a Register of mutations and entered mutations therein. He had no authority to do so as the entire record of revenue Village including the mutation register was with the Settlement Department, which had the lawful authority to enter and sanction the mutations.

II. The then Tehsildar without any authority and jurisdiction unlawfully sanctioned these mutations on 29.11.1995 when the revenue village was under settlement operations.

III. The then Naib Tehsildar, Una made a brief and misleading report to the Sub Divisional Collector for reviewing of these illegally sanctioned mutations not on the grounds of the merit or legal infirmities, but on account of purported defective seriatim. The Tehsildar, Una again committed a mistake of modifying the seriatim of these mutations by way of review so as to club these with the real mutation register. He failed to appreciate the merit and legal infirmities of these mutations vis-à-vis the observations made by his predecessor in a report submitted to the then Sub Divisional Collector. It has further been mentioned in the inquiry report that the entire effort seems to be in the direction of giving legal sanctity to an invalid record prepared without authority and jurisdiction."

3. Obviously, the petitioner could have no objection to the mutations being cancelled, as the same admittedly have been maintained by the patwari, who was having no authority to do so. Once the

respondents have themselves categorically admitted that the allotment made in his favour has not been disturbed, then the petition can conveniently be disposed of on the basis of such admission. Ordered accordingly.

4. However, before parting as noticed above, certain very startling and glaring revelations have come to light in the affidavit filed by the District Collector, Una (supra). The reply does not indicate the action, if any, taken against the erring officials by way of departmental proceedings of criminal action on both. We, accordingly direct the Principal Secretary (Revenue) to look into the matter and thereafter initiate appropriate action in accordance with law, if not already initiated.

5. With the aforesaid observations, the writ petition is disposed of, leaving the parties to bear their costs. Pending applications, if any, also stand disposed of.

**(Sanjay Karol),
Acting Chief Justice.**

**April 29, 2017
(rana)**

**(Tarlok Singh Chauhan),
Judge.**