

Alok Kumar And 10 Others vs State Of U.P. And 2 Others on 28 February, 2025

Author: Ashwani Kumar Mishra

Bench: Ashwani Kumar Mishra

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:28768-DB

Court No. - 29

Case :- WRIT - C No. - 16891 of 2021

Petitioner :- Alok Kumar And 10 Others

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Dinesh Kumar Singh

Counsel for Respondent :- C.S.C.,Uday Pratap Singh

Hon'ble Ashwani Kumar Mishra,J.

Hon'ble Donadi Ramesh,J.

Petitioners are State Government employees who have been allotted houses within the premises of respondent no.4 University by the State officials. They have approached this Court challenging a notice issued by the District Magistrate dated 07.07.2021 whereby they have been called upon to vacate the residential premises allotted to them as the premises are required to be handed over to fourth-respondent University. The notice of District Magistrate is issued pursuant to a direction issued by the Chancellor of the University on 01.07.2021.

The perusal of records would indicate that the premises in which the houses in question situate were initially part of Uttar Pradesh Pandit Deendayal Upadhyaya Pashu Chikitsa, Vigyan Vishwavidyalaya Evam Go-Anushandhan Sansthan,) a Veterinary College, Mathura (hereinafter referred to as "the Veterinary College") which was owned and controlled by the State Government. The Veterinary College, Mathura was transferred to Chandra Shekhar Azad, University of Agriculture and Technology, Kanpur (hereinafter referred to as "the Agricultural University") in 1975. The houses which were apparently constructed out of State funds but were located within the premises of the Veterinary College. Subsequently the fourth-respondent University got established in 2001 which took over the erstwhile Veterinary College from Agricultural University. The property hitherto owned by the the Agricultural University came to be transferred to respondent no.4 University. The authorities of State, however, continued to treat some of the houses constructed within the Veterinary College campus to be owned by the State and consequently State employees were allotted houses in the Veterinary College campus to the extent of 50 percent while remaining 50 percent were allotted by the University to its own employees. This arrangement was continuing for some time. An issue arose as to whether the houses constructed within the premises of the Veterinary College were transferred in its entirety to the Agricultural University or not? A Court order dated 15.07.1975 has been referred to according to which the entire property of the Veterinary College, Mathura, was transferred to the Agricultural University. Proceedings from time to time have been undertaken objecting to allotment of houses to State employees but uncertainty appears to have continued with regard to ownership of part of the houses constructed out of State Government funds which were kept in the pool of houses meant for State Government employees. It is now that the Chancellor of fourth-respondent University has issued a direction to the State to hand over the remaining houses also situated within the premises of the fourth-respondent University to the University which lead to issuance of notices to the petitioners, who have filed the present writ petition.

Learned counsel for the petitioner has placed reliance upon a Government Order dated 27.10.1994 which records that only such houses were transferred to the Agricultural University which were constructed by the Veterinary College and that the houses constructed by the State Government out of its own funds were neither transferred to the Agricultural University vide Government Order dated 15.07.1975 nor the ownership of State over such houses has ceased to exist. This Government Order forms the basis of the petitioners claim for challenging the impugned notice.

A counter affidavit has been filed by the District Magistrate, Mathura placing facts in this regard. According to the District Magistrate, Mathura houses allotted to petitioner were from the pooled houses available with the District Administration and that notices have now been issued under the orders of the State Government.

Respondent no.4- University has filed a counter affidavit denying the allegations made in the writ petition. According to University the State Government not only owned the Veterinary College but also the houses that were constructed within its premises. It is submitted that once the Veterinary College, Mathura was transferred to the Agricultural University the entire premises of the Veterinary College along with houses existing in its campus were transferred to the Agricultural University. It is submitted that some of the State officials who were earlier in occupation were issued notices under the U.P. Public Premises (Eviction of Unauthorized Occupants Act, 1972). These proceedings were

challenged before this Court in Writ Petition No.7546 of 1981. This Court dismissed the writ petition after observing that the entire property which initially belonged to Veterinary College, Mathura has been transferred to the Agricultural University. The judgment of this Court dated 17.07.1991 is relied upon which is reproduced hereinafter:-

"Alongwith the counter affidavit of Ramesh Chandra Bhatt a Government Order dated 15.07.1975 has been filed as Annexure-1 of which reference is G.O. NO.XII-E-37-4(15)/72-722. From this Government Order it is clear that the entire property which initially belonged to U.P. Veterinary Sciences and Animal Husbandry College, Mathura have been transferred to Chandra Shekhar Azad, University of Agriculture and Technology, Kanpur. This fact has not been denied it is clear from this order dated 15.07.1975 that after creation of the University on 01.03.1975 all the University on 01.03.1975 all the movable and immovable properties of U.P. Veterinary Sciences and Animal Husbandry were transferred to the University. Once the property was transferred to the University they seized to remain government property. In this circumstances the finding recorded by the District Judge, Mathura that the petitioner had failed to establish that the property is public premises does not suffer from any legal infirmity.

In this view of the matter there is no merit in the petition. It is accordingly dismissed. Parties shall bear their own costs."

The respondents have also relied upon a communication issued by the Chief Secretary of the State dated 02.01.2012 clearly stating that none of the houses in the Veterinary Hospital, Mathura be allotted to any one. Attention of the Court has also been invited to a communication issued by the Department of Animal Husbandry dated 06.09.2003 wherein also a specific direction has been issued to hand over the possession of the houses situated within the premises of the Agricultural University to the concerned University.

In reply learned counsel for the petitioner reiterates his contention according to which the houses since have been constructed by the State and forms part of the pooled house for the District concerned, the valid occupants cannot be evicted from the premises in the manner as is sought to be done.

We have heard learned counsel for the parties and perused the material available on record.

The undisputed facts that emerge from the materials placed before us is that the premises where the houses situate initially belonged to the Veterinary College. Veterinary College was a State College in 1975, the Veterinary College came to be transferred to the Agricultural University. Once the premises of the Veterinary College were transferred to the Agricultural University the houses constructed thereupon were also transferred to the Agricultural University. This is particularly so as this Court way back in 1991 has already examined the Government Order dated 15.07.1975 to held that ownership of entire premises including the houses situated in it were transferred to the Agricultural University. We otherwise see no reason as to how the houses situated within the premises of the

Agricultural University could be retained by the State Government only because State Government contributed funds for the constructions of the houses. The Veterinary College was otherwise owned by the State and not only the houses claimed by the petitioners but all other houses must have been constructed from the funds of the State. The construction of houses from the State funds, therefore, would not constitute any valid basis for such houses to be claimed by the State. The position in this regard has been clarified in the subsequent Government Order of the year 2003 issued by the Department of Animal Husbandry. We also find no reason for the State employees to be residing within the premises of the respondent no.4- University which has its premises separately earmarked and validly delivered to the fourth-respondent University. Petitioners, therefore, cannot resist transfer of possession of the houses which situate within the premises of the fourth-respondent University. Challenge laid to the impugned notice, therefore, must fail. It will otherwise make no sense to allow the petitioners who are not the employees of the University to reside within the premises of the University.

However, as the petitioners are employees of the State Government we deem it appropriate to provide that in the event petitioners approach the District Magistrate, Mathura, he shall accord consideration to their claim for allotment of official accommodation elsewhere. Such arrangement would be made within a period of three months. The District Magistrate, Mathura shall ensure that upon expiry of three months entire houses in possession of District Administration situated in the premises of fourth-respondent University are hand over/ transferred to the fourth-respondent University, in accordance with law.

Order Date :- 28.2.2025 A Gautam