



ITEM NO.46+69

COURT NO.6

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Item No.46:

Writ Petition(s)(Criminal) No(s). 134/2022

ASHOK KUMAR

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ANR.

Respondent(s)

(IA No. 49391/2022 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 151243/2024 - EXTENSION OF TIME)

WITH W.P.(Cr1.) No. 129/2024

(IA No. 165956/2024 - EXEMPTION FROM FILING O.T.

IA No. 169034/2024 - EXTENSION OF TIME

IA No. 47446/2024 - INTERIM BAIL

IA No. 165289/2024 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

With

Item No.69:

Miscellaneous Application No. 199/2024

in D No. 32810/2022

(IA No. 243794/2023 - CLARIFICATION/DIRECTION)

Date : 20-08-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA

HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Petitioner(s)

Mr. Purvish Jitender Malkan, Sr. Adv.

Mr. C. K. Rai, AOR

Mr. Arvind Kumar Tiwari, Adv.

Mr. Manish Kumar, Adv.

Ms. Aqsa, Adv.

Mr. Mohan Lal, Adv.

Mrs. Anuradha Roy, Adv.

Mr. Vinay Kumar Gupta, Adv.

Mr. Pradeep Kumar Yadav, Adv.
Mr. Vishal Thakre, Adv.
Mr. Gopal Singh, Adv.
Ms. Anjale Kumari, Adv.
Ms. Chhaya, Adv.
Mr. Tota Ram, Adv.
Mr. Sanjeev Malhotra, AOR

Mr. Pradeep Kumar Yadav, Adv.
Mr. Vishal Thakre, Adv.
Mr. Gopal Singh, Adv.
Ms. Anjale Kumari, Adv.
Ms. Chhaya, Adv.
Mr. Tota Ram, Adv.
Mr. Sadam Satya Narayana Raja Yadav, Adv.
Mr. Sanjeev Malhotra, AOR

For Respondent(s)

Mr. K M Nataraj, A.S.G.
Mr. Sharan Thakur, Sr. A.A.G.
Mrs. Garima Prasad, Sr. A.A.G.
Ms. Sakshi Kakkar, AOR
Mr. Anchit Singla, Adv.

Mr. R.K. Raizada, Sr. Adv., A.A.G.
Mr. Antriksh Singh, Adv.
Mr. Ankit Goel, AOR
Mr. Nikhil Sharma, Adv.
Mr. Sahil Patel, Adv.

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

Writ Petition (Criminal)No.134 of 2024

We have perused the affidavit of Mr. Rajesh Kumar Singh, Principal Secretary, Prison Administration and Reforms Department, State of Uttar Pradesh. The stand taken on oath in the said affidavit affirmed on 14th August, 2024 is completely different from the solemn statements made by the same officer which were recorded in this Court's order dated 12th August, 2024. In fact, some of the statements made in the affidavit including

the statement made in clause (g) of paragraph 5 of the affidavit appear to be false.

We have perused the file tendered by the learned Additional Solicitor General appearing for the State Government. On 13th May, 2024 we had issued a direction to the State Government to consider the case of the petitioner for grant of permanent remission by observing that the Code of Conduct does not come in the way of the authorities. Time of one month was granted to report compliance.

However, there was no movement of the file after 13th May, 2024, as can be seen from the file. The Code of Conduct came to an end on 6th June, 2024. Four days thereafter, a noting has been prepared by a Secretary on 10th June, 2024. The noting was signed by all concerned officers on 13th June, 2024. However, it was sent to the Hon'ble Minister on 24th June, 2024. This has to be appreciated in the light of the fact that on 13th May, 2024, this Court had extended the time granted earlier by a period of one month. The affidavit gives an impression that from the Hon'ble Minister of the concerned Department, the file was sent to the Hon'ble Governor's office. However, it is not mentioned in the affidavit that the file was sent to the office of the Hon'ble Chief Minister on 5th August, 2024. It appears that the file was signed by the Hon'ble Chief Minister on 5th August, 2024 and on 13th August, 2024 the file was

signed by the Hon'ble Governor. Thus, a complete breach of the order dated 13th May, 2024 is writ large on the file. In fact, the statement which was orally made by the Principal Secretary on the last date that the file was kept pending because of the Code of Conduct appears to be fully correct as can be seen from the file.

We direct the Principal Secretary to personally remain present in the Court on the next date.

In the meanwhile, we enlarge the petitioner on temporary bail on appropriate terms and conditions as may be fixed by the Trial Court. For that purpose, the petitioner shall be produced before the Trial Court within a maximum period of four days from today and shall be enlarged on temporary bail on appropriate terms and conditions.

List on 27th August, 2024 when the Principal Secretary shall personally remain present.

Even today, the Principal Secretary is present in Court.

We are putting him to notice that we may consider of issuing a notice of criminal contempt to him. If he wants to file further affidavit, he is free to file the same till the next date. The original file is returned to the learned Additional Solicitor General appearing for the respondents.

Liberty is granted to the petitioner to challenge the order of rejection within a period of one week from today by filing an amended petition.

Writ Petition (Criminal)No.129 of 2024

We permit the petitioner to amend the Writ Petition for challenging the order of rejection.

The amended petition to be filed within a period of one week from today.

List on 2nd September, 2024.

The original file shall be produced before the Court on the next date.

Miscellaneous Application No.199/2024 in D No. 32810/2022

The learned counsel appearing for the respondent-State states that by order dated 18th August, 2024, the applicant/petitioner has been set at liberty. Hence, the application is disposed of.

Miscellaneous Application also stands disposed of.

(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER