

(2024) 11 UK CK 0113

Uttarakhand High Court

Case No: Writ Petition Miscellaneous Single No. 2402 Of 2016

Kushal Singh Bhandari

APPELLANT

Vs

State Of Uttarakhand Through
Secretary Urban Planning And
Development & Others

RESPONDENT

Date of Decision: Nov. 13, 2024

Acts Referred:

- Uttarakhand Town And Country Planning & Development Act, 1973 - Section 51(3)

Hon'ble Judges: Pankaj Purohit, J

Bench: Single Bench

Advocate: Nalin Saun, M.S. Bisht, Rahul Consul

Final Decision: Dismissed

Judgement

Pankaj Purohit, J

1. Heard learned Counsel for the parties.
2. Petitioner had filed this writ petition challenging the order dated 24.08.2016 (Annexure No.11 to the petition) passed by respondent no.2-MDDA.
3. The main ground to put challenge to the impugned order was that the Superintendent Engineer, who passed the impugned order, had no power to pass the same and therefore the same is per se illegal and thus, deserves to be set aside.
4. A counter affidavit has been filed in the matter on behalf of respondent no.2, wherein, the reply to the challenge laid by petitioner has been given.

For the sake of convenience, the said paragraph is quoted below: -

“That while passing Interim Order dated 29.08.2016, this Hon'ble Court observed that prima facie, the contention of the Petitioner i.e.

the order dated 24.08.2016 passed by the Superintendant Engineer of the Respondent No. 2, appears to be correct. It is humbly submitted

that Section 51 (3) of the Uttarakhand Town and Country Planning & Development Act, 1973 states that the Vice Chairman of the Authority

may by general or special order direct that any power exercisable by him under the Act may also be exercised by such officer of the

Authority in such cases and subject to such conditions, if any, as may be specified therein. In the matter at hand, The Vice Chairman of the

Authority has, vide order dated 08.06.2016, delegated the power to Shri Anil Tyagi, Superintendant Engineer of the Authority to pass

orders and to take action under Section 26, 27, 28 and 28-A (Power to Seal) . Copy of the order of delegation dated 08.06.2016 is being

placed as ANNEXURE CA-1 to this affidavit.”

5. It is evident on a perusal of the reply filed by respondent no.2 that the power to pass the order of sealing, which is under challenge in the present

writ petition, vests with the Vice Chairman of the Authority who is well empowered under Section 51(3) of the Uttarakhand Urban Planning and

Development Act, 1973 to delegate his powers to such officer of the Authority either by general or special order as may be specified in the order.

Accordingly, in exercise of such powers, the Vice Chancellor has authorized the Superintendent Engineer who passed the order under challenge.

6. In such view of matter, there is no illegality or infirmity in the impugned order. The petition lacks merit and the same is, accordingly, dismissed.

Interim order dated 29.08.2016 passed by this Court is vacated.

7. Pending application, if any, stands disposed of.