

Constitutional Law

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1. Introduction

This annual survey contains the decisions relating to constitutional law issues of the Allahabad High Court during January to December 2024. The decisions that do not fall within the domain of constitutional law are not specifically mentioned in this survey.

2. Writ Jurisdiction

In *Moti Singh Sikarwar v. Devendra Singh*,¹ the petitioner sought compensation for defamation as two suits were disposed off by the Additional Civil Judge & Civil Judge Senior Division by granting *ex parte* decree. The case of petitioner/appellant in this case came before a single judge bench of the Allahabad High Court and the petition was dismissed as the judge felt that it does not call for interference by the court.

A division bench of the Allahabad High Court allowed the writ petition filed by the Petitioner, a private limited company, engaged in development of residential and commercial projects, in *M/s Divine Conbuild Private Limited v. State of Uttar Pradesh*.² The petitioner sought for the writ of *Certiorari* to quash the order passed by the Managing Director of the Uttar Pradesh Small Industries Development Corporation as well as the writ of *Mandamus* to direct the respondent to provide the necessary link in the form of access road to the site allotted for development. The petitioner also prayed to the court for re-fixing the seven-year period for completion of the project from the date of completion of the sixty-meter-wide 'access road' to be provided by the respondent. The division bench of the Allahabad High Court allowed the writ petition and passed necessary and consequential directions to the respondent in this regard.

However, a division bench of the Lucknow Bench of the High Court dismissed the writ petition in *Mohd. Rehan v. Lucknow Development Authority*.³ In this case, the petitioner by a writ petition, wanted the court to quash the cancellation order issued by the Lucknow Development Authority, including forfeiture of token money deposited. The petitioner did not comply with the notices issued by the Lucknow Development Authority, citing one reason or the other. In the agreement entered between the petitioner and the Lucknow Development Authority, there was no condition requiring the Authority to provide any opportunity of hearing to bidders before terminating their bids or cancelling allotment so made. However, the petitioner was given sufficient notices to comply with. The court held

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¹ AIR 2024 All 1; AIROnline 2023 All 1847.

² AIR 2024 All 5; AIROnline 2023 All 1916.

³ AIR 2024 All 10; AIROnline 2023 All 1920.



that the order of cancellation of allotment and forfeiture of deposits upon default as legal and dismissed the writ petition.

In *Amit Agarwal v. Atul Gupta*,⁴ the termination of the sole arbitrator due to long delay of eight years was considered by the court. After eight years, the sole arbitrator hurriedly proceeded and made final award under Arbitration and Conciliation Act, 1996. This was done by the sole arbitrator while an application for termination of his mandate was pending before the Competent Court. The High Court dismissed the writ petition and upheld the lower court order terminating the mandate of sole arbitrator in this case.

The Allahabad High Court pressed in to service the doctrine of Acquiescence in *M/s Pandit Damber Lal Bhagirathi Filling Station v. Union of India*.⁵ A division bench of the High Court allowed the writ petition in this case. The original allottee, a school teacher submitted his resignation after the allotment was made in his favour. However, the District Inspector of Schools rejected his resignation. Therefore, the allottee continued to be in service till his superannuation. All these facts were known to the Indian Oil Corporation Limited from the very beginning. After nine years, the Indian Oil Corporation Limited terminated the order of dealership by an order issued on 12.03.2022. The division bench held that the Indian Oil Corporation Limited cannot terminate the order of dealership after nine years as it is bound by the doctrine of Acquiescence.

The Lucknow bench allowed the writ petition and set aside the order of Additional Civil Judge in *Savithri Devi v. Civil Judge Junior Division Court*.⁶ The petitioner's application for impleading in a suit for cancelation of a sale deed was rejected by the Additional Civil Judge (Junior Division), Barabanki, by an order dated 15.07.2011. It is about a property on which a suit for cancellation of sale deed dated 28.04.2009 was filed by the respondent No. 2 against respondent no. 3. During the pendency of the suit, respondent no.3 had transferred the property to the petitioner by means of a gift deed dated 10.08.2009 by means of a registered instrument. After the execution of the gift deed, the petitioner had moved an application for impleadment, which was opposed by respondent no. 2 stating that no transfer made during the pendency of the suit would be void in terms of section 53 of the Transfer of Property Act and consequently the petitioner has got any right to become a party in the present litigation. The Trial Court sustained this objection and rejected the application for impleadment by the petitioner. On appeal to the High Court, the order of the Additional Civil Judge (Junior Division) dated 25.07.2011 was set aside and allowed the writ petition.

⁴ AIR 2024 All 30; AIROnline 2023 All 2053.

⁵ AIR 2024 All 37; AIROnline 2023 All 1940.

⁶ AIR 2024 All 55; AIROnline 2024 All 100.

In a writ petition filed under Article 226 of the Constitution of India, the High Court issued directions to the Union of India and others in *Naromattie Devi Ganpat v. Union of India*.⁷ The petitioner is a U.S. Citizen, born in Guyana, but of Indian origin. Her grandfather Bishnath hailed from Allahabad, Jaunpur and Hania, who was sent from Calcutta by a ship “EMS” to Guyana vide immigration no. 104709. The petitioner is also the great grand daughter of Ganesh and Janki hailing from Jaunpur and Hania respectively. In proof of this, the petitioner got an 'apostille'⁸ copy of her grandfather's immigration certificate from the National Archives of Guyana showing that they immigrated by ship 'Delhet' on 10th October 1882 and it also carried the immigration certificate of her grandmother Janki.

The petitioner applied for Ancestry certificate and was issued by the Village Pradhan of Sarigao, Jaunpur District on 3.10.2022. The petitioner claimed to have married Bhavin Dinesh Dholakia on 14.9.2018 in a temple in Mumbai, duly registered on 24.9.2018. She then applied for Overseas Citizen of India (OCI) Card through her spouse and also through her ancestry. It was denied on the ground that her marriage was not verified. The petitioner applied for visa conversion on 20.9.2022, but was rejected again. Her visa expired on 6.2.2023. She filed this Writ Petition seeking Writ of Mandamus directing the respondent to register the petitioner as OCI card holder.

The Respondent Authority pleaded that Allahabad High Court did not have the territorial jurisdiction as the petitioner/applicant was staying in Uttarakhand. The High court rejected this contention since her great grandparents hailed from Jaunpur that fell within the territorial jurisdiction of this Court. The meaning, nature and scope of 'apostille' document, the Hague Convention, 1961, and the relevant notification of Government of India were taken together and the Division Bench held that the petitioner has clearly made out a case that her great grandparents migrated from Allahabad to Guyana in 1882 and hence she is entitled to the OCI card and directed the respondents to process the OCI card. The order also directed the respondents to convert the visa of petitioner, so that she is eligible for OCI card. Allowed the Writ petition.

In *Jamal Khan v. Siraj Ahmed*,⁹ the election of village Pradhan was challenged on 12.7.2021 under section 12C of Uttar Pradesh Panchayat Raj Act, 1947, on the ground that the petitioner belonged to general category but has contested the election as a Backward class category. Election of petitioner was set aside by prescribed Authority on 16.12.2022.

⁷ AIR 2024 All 69; AIROnline 2024 All 70.

⁸ Apostille is a special certification or stamp that verifies its authenticity and legal origin. This process is governed by the Hague Apostille Convention, 1961, that simplifies the legalization of public documents for use in foreign countries.

⁹ AIR 2024 All 80; AIROnline 2024 All 109.



Issuance of backward class certificate was by Tehsildar of another district. He then filed a revision before District judge and was dismissed on 5.5.2023. The court held that the petitioner failed to make out any case for interference of this court, exercising extraordinary jurisdiction under Article 227 of the Constitution of India for setting aside the orders of 16.12.2022 and 5.5.2023. Further, the court held that as the Election Commission had proceeded to notify the election on 16.8.2023, no interference is required for setting aside the said notification. Both writ petitions were accordingly dismissed.

In *Energo Constructions Private Ltd v. Uttar Pradesh Rajya Vidyut UT.P.A. dan Nigam Ltd*,¹⁰ the Petitioner is a service provider (operation and maintenance services) to respondent company. Based on a tender, the petitioner was awarded a two-year contract for operation and Maintenance services. One of the unsuccessful bidders pointed out that the petitioner company has been debarred by another state-owned power generating company in Madhya Pradesh. A response was sought on this from the petitioner vide letter dated 15.10.2020 and on clarification, a contract was signed on 15.3.2021. Respondent floated a tender for a period commencing from 1.3.2023. As tender could not be processed, the existing contract with petitioner was extended up to 31.3.2023. Fresh tender was floated again on 22.3.2023, which had two bid modes, technical and financial. Technical bid was opened on 6.4.2023, and few including petitioner were found technically qualified. As the tender could not be completed, the existing contract with petitioner company was further extended up to 31.05.2023. Subsequently, in the financial bid, the petitioner company was L1 but tender was not awarded as respondent No.4 had filed a complaint alleging that petitioner has filed a false affidavit regarding blacklisting/debarment/termination of the contract.

The respondent No.1 had issued letter of intent in favour of respondent No.4 on 28.7.2023. The petitioner moved this court seeking writ of Certiorari to quash the letter of intent dated 28.7.2023 and Mandamus directing respondents 1–3 to award the tender to the petitioner company as it was L1. After this, an email was sent out by respondent No.1 stating that the competent committee did not consider the offer of L1 due to submission of false information on notarised affidavit regarding blacklisting/debarment/termination of contract. After receiving this email, the petitioner moved an amendment application that was allowed by the court on 28.11.2023.

After referring to catena of Supreme Court decisions on similar issues, the court held that the petitioner had submitted a false affidavit and therefore he was disqualified for giving a false declaration. The claim of being L1 is immaterial as only those financial bids

¹⁰ AIR 2024 All 83; AIROnline 2024 All 159.

could be entertained who are technically qualified. The petitioner does not qualify or pass the first hurdle and hence it cannot take a benefit or argue that since its bid was lowest, tender should be awarded to it. The writ petition was accordingly dismissed.

The Lucknow Bench quashed the impugned *ex parte* order dated 21.12.2023, issued by the Sub-Registrar imposing additional stamp duty and penalty, and remitted the matter to the competent Authority (Respondent 1) to pass a fresh order within three months, after the opportunity of hearing to all the parties in accordance with law, in *Sammukh Land Developers and Promoter Private Ltd., Jaunpur v. Collector/District Magistrate, Ambedkar Nagar*,¹¹ The court allowed the writ petition.

The Lucknow bench allowed the petition in *Ritesh Agarwal v. Commissioner, Devi Patan Mandal, Gonda and others*.¹² Revision of an *ex parte* order dated 24.8.2023, directing parties to maintain status quo under section 210 of Uttar Pradesh Revenue Code, 2006, is not maintainable. Only appeal under section 207 of the Code of 2006 would lie against the said order. Accordingly, the impugned order dated 24.8.2023 passed in revision No.1201 of 2023, by respondent No.1 Commissioner, Devi Patan Mandal, Gonda was set aside. The petition was allowed.

In *Rakesh K.V. Jaswal v. State of Uttar Pradesh and others*,¹³ the petitioner sought Writ of Mandamus, directing the respondents to decide the application of petitioner for cancellation of lease and not to realise the royalty in respect of lease area to the petitioner after 15.6.2004. The provisions of Mines and minerals (Development and Regulations) Act, 1957 and the Uttar Pradesh, Minor Minerals (concession) Rules, 1963 were in consideration. Since there was no approach Road to extract sand from lease area, petitioner applied for cancellation of lease. This application was rejected by district magistrate, Maharajganj, by order dated 15.6.2004 on the ground that providing road to the site of mining was responsibility of lease holder. Rule 16 of Rules, 1963 provides the option to the lessee for determination of mining lease after giving a notice in writing of not less than six months. The application by petitioner should have been treated as notice under Rule 16 and held that rejection of the petitioner's application for cancellation of lease was not proper and directed the authority to consider the application of petitioner treating it to be six months' notice as provided under Rule 16 of Rules 1963.

In an Election Petition filed under section 12C of the Uttar Pradesh Panchayat Raj Act, 1947, the High Court in *Shashi Kushwaha v. Seema Sahu and others*,¹⁴ dismissed the

¹¹ AIR 2024 All 106; AIROnline 2024 All 122.

¹² AIR 2024 All 124; AIROnline 2024 All 222.

¹³ AIR 2024 All 154; AIR Online 2024 All 451.

¹⁴ AIR 2024 All 158; AIROnline 2024 All 473.



petition filed by the appellant under Article 226 of the Constitution of India. An Election Petition was filed under section 12C of the Act of 1947, with the jurisdictional Revisional Court that can reappraise evidence, both oral and documentary, to examine material irregularities or any illegality committed by the Prescribed Authority to recount ballot papers. However, after perusing the facts and circumstances of the case, the High Court dismissed the petition as it felt that no interference under Article 226 of the Constitution of India was warranted.

In another writ petition filed under Article 226 of the Constitution of India in *Sheel Mohan Bansal v. State of Uttar Pradesh and others*,¹⁵ the High Court allowed petition. In this case, the High Court referred to the previous decision in *Sumit Gupta v. State of Uttar Pradesh*,¹⁶ wherein it was held that for levying stamp duty on a gift deed, the provisions of section 47A of the Stamp Act, 1899, would not come into play and that there is no requirement of determination of market value in such gift deeds. Therefore, the authorities cannot take recourse to section 47A (3) of the Stamp Act, 1899 and *suo motu* seek additional stamp duty based on market value of property. The orders of the authorities dated 18.11.2022 and 13.03. 2023 were set aside by the court. Apart from this Justice Shekar B Saraf went on to direct the authorities to be far more cautious in their approach in quasi-judicial functions being carried out by them. The writ petition was allowed and the amount deposited by the petitioner is directed to be refunded to him within a period of 6 weeks from the date of the decision along with an interest at the rate of 5% from the date of deposit.

In *Smt. Shivani Chaurasia v. State of Uttar Pradesh and another*,¹⁷ the court distinguished the power to review carried out by the collector as a quasi judicial authority in the absence of such powers in law and inherent powers of constitutional courts to review its own decisions. The impugned order of collector dated 3.2.2023 is quashed and set aside. Writ petition was allowed.

In *Uttar Pradesh power Corporation Limited v. Central Electricity Regulatory Commission and another*,¹⁸ Regulation 5A of Central Regulatory Commission Terms and Conditions of Tariff Regulations, 2004, provided for imposing a simple interest of 6% per annum at the time of recovery of a price or charge exceeding tariff. Whereas S.62 (6) of the Electricity Act, 2003, specifically provided for interest rate equivalent to the bank rate. The bank rate is variable and is based upon various considerations. As these two provisions (S.62 (6) of the Act of 2003 and regulations, 5A of Regulations, 2004) are in direct conflict and the

¹⁵ AIR 2024 All 164; AIROnline 2024 All 465.

¹⁶ AIR 2011 All 135.

¹⁷ AIR 2024 All 180; AIROnline 2024 All 564.

¹⁸ AIR 2024 All 185; AIROnline 2024 All 547.

division bench held that regulation 5A of the Regulation, 2004, as unconstitutional and quashed the same. The court further held that the Central Electricity Regulatory Commission did not have any power to provide any different rate of interest in its Regulations. Writ Petition was allowed.

A division bench of the High Court in *Dilip Charan Wahal v. Union of India*,¹⁹ decided this case under Article 226 of the Constitution filed for writ of Certiorari and Mandamus. A lease deed was executed on behalf of Central government on 15.5.1934, in respect of premises described as 'Carter House, 236, M. G. Road, Lucknow Cantonment' in favour of Shri. Shiv Charan for a period of 30 years with effect from 25.10.1933, which was renewable up to 90 years. The petitioners were in actual possession of the property and in *de jure* possession of the rest of the property (Carter house) which is in occupation of the respondents, as it was let out to the Governor General in council at a monthly rent of ₹ 220/- by lease deed dated 21.11.1941. On 10.3.2017, the central government framed a policy providing for an extension of expired/expiring leases. By virtue of this, the lease of the property in question was extended initially up to 31.12.2019 and again on 15.2.21 up to 30.12.2021 or till finalisation of a new policy, whichever is earlier. This was further extended up to 31.12.2023. The lease dated 15.5.1934, in favour of the petitioner had expired on 24.10.2023, yet the petitioners have been allowed to occupy the property till date. The respondent no.3, by a demand notice dated 8.12.2023 directed the petitioners to pay ₹ 77, 05, 669 per annum. Another demand notice dated 19.2.2024, in pursuance of an interim policy dated 30.1.2024, demanding a total of ₹ 91, 63, 857 to be paid within a period of 90 days for the purpose of processing the issue of execution of lease deed up to 31.12.2024, failing which the petitioners would be deemed to be unauthorised occupants and would be liable for eviction under provisions of Public Premises (Eviction of Unauthorised Occupant) Act, 1971, and that the petitioner would be entitled to an extension of lease up to 30.12.2024. The petitioner contended that on extension of lease, rent cannot be increased and it can be done only on renewal. The increase of rent from ₹ 50 per annum to ₹ 77, 05, 669 per annum is arbitrary and contrary to the principles established in Article 14 of the Constitution of India. The court dismissed the petition as it didn't find any violation of Article 14 and that the lessees are free to accept or reject the offer made by the respondents.

An Election Petition, on appeal was taken up in *Shahnawaz Ali v. Election Tribunal, District Judge, Muzaffarnagar and others*.²⁰ Election petition was filed well within prescribed period, but could not be admitted and registered due to summer vacation. The plea that election petition was barred by limitation (30 days from declaration of results) was not

¹⁹ AIR 2024 All 202; AIROnline 2024 All 495.

²⁰ AIR 2024 All 214; AIROnline 2024 All 781.



tenable. The High Court affirmed the order of District judge (Election Tribunal) dated 3.7.2023, as there is no illegality, perversity, or irregularity in the order and dismissed the Writ petition.

The High Court considered the election procedure on appeal in *Committee of Management, Arya Kanya Pathshala Samiti and others v. State of Uttar Pradesh and others*²¹ The petitioner challenged the order of Assistant Registrar, Firms, Societies and Chits, Jhansi region, dated 19.9.2023, declaring the election proceedings dated 30.10.2021 and 10.6.2023 to be invalid. The order dated 19.9.2023, also declared the Committee of Management of the society as time barred in the exercise of powers under section 25 (2) of the Societies Registration Act, 1860 and further for elections of the Committee of Management of the society has proceeded to determine valid members of the society, that is, the electoral college under section 4B of the Act of 1860.

Preliminary objection was raised by respondent regarding maintainability of this writ petition. Further, raised objection to the petitioner number one (AKPS), as it is represented through deputy manager under the bylaws of the society and is not authorised to file any writ petition on behalf of the Committee of Management. On behalf of petitioner, it was contended that only Prescribed Authority can, on reference made under section 25 (1) of the Societies Registration Act, 1860, and the Assistant Registrar does not have any jurisdiction to adjudicate in this matter. The order dated 19.9.2023 passed by Assistant Registrar and consequential order dated 5.4.2024, along with consequential election proceedings, if any, were set aside. The court remitted this matter to Assistant Registrar for appropriate orders in accordance with law and after providing hearing to all parties. Writ petition was allowed.

In a writ petition filed under Article 226 of the Constitution of India in *A. K. Construction Co. v. Union of India and others*,²² the petitioner assailed the order dated 31.5.2024 passed by Chief General Manager, Commercial Operations, National Highways Authority of India. This order was passed pursuant to the show cause notice issued to the petitioner dated 24.5.2024 and the petitioner gave the reply 27.5.2024. This impugned order terminated petitioner's contract with the NHAI for running Kaithi Fee Plaza and further debarred from the list of prequalified bidders for a period of six months. Petitioner contended that on perusal of the impugned show cause notice, it is clear that reeks of premeditation and *fait accompli* by itself. The authorities have blatantly erred in law in not considering the reply by the petitioner, point by point, yet passed the impugned order in

²¹ AIR 2024 All 238; AIROnline 2024 All 690.

²² AIR 2024 All 246; AIROnline 2024 All 946.

gross violation of the principles of natural justice. The petitioner submitted that the quantum of damages/ the termination and debarment is against the principle of proportionality and also amounts to double jeopardy. The petitioner has already paid the penalty of ₹ 8,00,000 for the technical breaches committed by it.

The division bench of the High Court, after hearing both the parties and referring to a catena of judicial decisions, held that in not giving any opportunity to the petitioner to show cause against the proposed termination of contract and there being no sufficient reason to justify the impugned action, the NHAI has acted unfairly, unreasonably, in an arbitrary manner and in violation of principle of natural justice, thereby infringing the petitioner's right guaranteed by Article 14 of the Constitution of India. The action of NHAI amounted to double jeopardy. The division bench also reiterated, based on judicial decisions, four specific principles: (i) the principle of proportionality, which dictates that any decision to blacklist must be reasonably fair and commensurate with the gravity of the alleged offence or breach; (ii) general principles of natural justice that include audi alteram partem, nemo iudex in causa sua (no one can be a judge in their own cause), and the right to a reasoned decision; (iii) principles of non-arbitrariness and non-discrimination that would prevent arbitrary state actions and ensure that decisions are made based on lawful and relevant grounds, promoting fairness and equality under Article 14 of the Constitution of India; and (iv) the rule of law, which requires that every action of the state should comply with legal standards and be informed by reasons.

Accordingly, the division bench quashed the impugned order dated May 31, 2024 with the direction to the authority concerned to issue a fresh show cause notice to the petitioner. On receipt of reply, an opportunity of hearing should be granted to the petitioner and thereafter reasoned order be passed by the authority concerned. The High Court allowed the writ petition.

A Division Bench at Lucknow partly allowed the appeal in *M/s Shyam Lalith Dubey and another v. Union of India and another*.²³ In an appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996, filed by the Petitioner, whereby the Commercial Court had set aside an entire Award relating to Claim pertaining to Epoxy Grouting and interest was set aside by the High Court and the rest of the Award was upheld.

In *Punjab National Bank, earlier Oriental Bank of Commerce v. Sanjeevani Shiksha Samiti*²⁴ the High Court considered the issues of mesne profit under section 106 of the Transfer of Property Act, 1882. The enhancement of Mesne profits at admitted market rate

²³ AIR 2024 All 256; AIR Online 2024 All 907.

²⁴ AIR 2024 All 270; AIR Online 2024 All 900.



of 15% was held to be proper under the Uttar Pradesh Regulations of Urban Premises Tenancy Act, 2021. The court dismissed the petition affirming the judgment of trial court in so far it relates to payment of Mesne profit at 15%.

In *Somesh Prakash and others v. State of Uttar Pradesh and others*,²⁵ petitioners, nine of the joint owners, divided the property. Notice was issued under Indian Stamp Act, 1899. Not satisfied with the reply, penalty was also levied. The court held that in view of the family settlement, the orders do not refer to any reason for justifying levy of the penalty and quashed the same. By allowing the writ petition the court observed that any amount deposited by the petitioners shall be refunded along with an interest at 4% till the actual payment is made, within a month. The court also observed that it is a settled law that reason is the heartbeat of every conclusion. An order without valid reasons cannot be sustained. To give reasons is the rule of natural justice and it is well settled that not only the judicial order, but also administrative order must be supported by reasons recorded in it.

In a writ petition filed under Article 226 of the Constitution of India, in *Dynamic Infracon Private Limited v. State of Uttar Pradesh and others*,²⁶ the division bench dismissed the petition. In this case, the petitioner is a private limited company engaged in a business of supply of sal wood sleepers and edgings, and has previous experience in the supply of the same at the earlier Kumbh Mela held in Prayagraj. On 28.5.2024, The Sal Sleeper Purchase Committee through the office of the Chief Engineer, Public Works Department, Prayagraj, issued an e-bid document for the supply of Sal wood sleepers and edging for construction of pontoon bridges in the Maha Kumbh Mela, 2025. The last date for submission of bidding documents was fixed as June 11, 2024, subsequently, the last date was duly extended up to June 12, 2024. The process consisted of two stages, namely, technical bid and financial bid. The financial bid would be opened for only those bidders who were successful in the technical bid. Out of 12 bids, 11 were found to be qualified for financial bid, which was opened on June 15, 2024. Contract was granted in favour of five bidders, L – 1 to L – 5, because L – 2 to L – 5 agreed to supply the materials at the same rate quoted by L-1 (₹ 1, 58, 000 per cubic meter). The petitioner was placed at L – 10 at ₹ 2, 26, 900 per cubic meter. On June 28, 2024, letter of award was granted in favour of the five bidders (L – 1 to L – 5).

The Division Bench observed that it is clear that this court is not required to find fault of the authorities with a magnifying glass, rather the court should examine the decision-making process and leave room for interpretation of the contract by the authorities. The petitioner failed to establish that the action of authorities was contrary to public interest and within the realm of discrimination and unreasonableness and dismissed the writ petition.

²⁵ AIR 2024 All 308; AIROnline 2024 All 1156.

²⁶ AIR 2024 All 328; AIR online 2024 All 1121.

3. Appellate Jurisdiction

A Division Bench had to decide on jurisdictional issue as well as the Award issued by the Facilitation Council, Kanpur, under the Arbitration and Conciliation Act, 1996, in *Marsons Electrical Industries v. Chairman, Madhya Pradesh Electricity Board*,²⁷ The award passed by the Facilitation Council, Kanpur, dated 02.07.2009 and signed on 07.09.2011, and final award passed on 03.02.2012 was appealed against before the Commercial Court which set aside the arbitral award by holding that only the courts in Jabalpur would have jurisdiction. The division bench set aside the decision of the Commercial Court and upheld the award passed by the Facilitation Council, Kanpur, dated 02.07.2009, signed on 07.09.2011, and final award passed on 03.02.2012 was restored and affirmed.

In *Anita Devi Chaurasiya v. State of Uttar Pradesh*,²⁸ an election petition filed under section 26G of the Uttar Pradesh Panchayat Raj Act, 1947, on the ground that 49 voters had their names listed in multiple village panchayats, leading to double voting. The prescribed Authority declared the election null and void on 27.12.2022. However, the Revisional court set aside the order of prescribed Authority on the requirement of specific pleading on 24.05.2023. The election petitioner has to state grounds and concise summary of facts while has materially affected result of election. There was only an averment regarding double voting but no averment specifying which voters from other village panchayat had double voted and how it materially affected election result. The HC upheld the order of Revisional court (District Judge) in this case.

A Division Bench of the High Court allowed an appeal in *Dr. Rajeev Sinha v. Union of India and others*.²⁹ The petitioner had purchased a part of land measuring 0.230 hectares/2300 square metres in Koncha, Bhanvar village Pargana in District of Jhansi and got it registered as deeds on 27.3.1993 and 4.2.1994. The Union government acquired the land for a highway project and the Special Land Acquisition Officer assessed the market value of the land at ₹ 15,00,000 per hectare. The petitioner approached the competent authority under section 3G (5) g of the National Highways Act, 1956. The collector/District magistrate as the arbitrator declared his award on 15.9.2017 on the lines of assessment by Special Land Acquisition Officer. The petitioner assailed this award before the district judge, Jhansi, section 34 of the Arbitration and Conciliation Act, 1996. The district judge set aside the award dated 15.9.2017 and remanded the matter to the Arbitrator for fresh consideration in the light of observations made in his judgment dated 27.4.2022 and by affording

²⁷ AIR 2024 All 19; AIROnline 2023 All 2023.

²⁸ AIR 2024 All 60; AIROnline 2024 All 16.

²⁹ AIR 2024 All 97; AIROnline 2024 All 152.



opportunity of hearing to the parties. The District Magistrate on remand however, rejected the reference and by order dated 28.7.2023 by holding that the compensation awarded earlier on 30.9.2010 was according to law and the petitioner is not entitled to any further compensation. This order of the Arbitrator dated 28.7.2023 was challenged by the petitioner in this writ petition. The division bench after hearing the parties and perusing the records held that the court was fully satisfied that the Arbitrator/Collector, Jhansi, has acted in defiance of fundamental principles of judicial procedure, particularly by not following the directions of the district judge. The bench quashed the order of Arbitrator/District magistrate and ordered for fresh exercise to be carried out by the Arbitrator/Collector Jhansi, strictly in accordance with the law and based upon material on record. The division bench allowed the writ petition so filed by the petitioner.

In *Pankaj Rastogi v. Mohd, Sazid and another*,³⁰ the trial court has rightly held the mandatory provisions under section 12 A of Commercial Courts Act 2016. With a view to meet ends of Justice, the order rejecting the plaint was set aside and appellant was directed to approach the mediation Centre in accordance with section 12 A of the Commercial Courts Act, 2016. The court by referring to the judicial pronouncements, held that it can be conclusively inferred that the invocation of urgent relief should not serve as a pretext circumvent. Section 12 A of the Commercial Courts Act 2016.

The Lucknow bench of the High Court dismissed an appeal in *Smt. Renu Singh v. Shubhang Chauhan and another*.³¹ The trial court has decided a suit without following due procedure of law and therefore cannot be sustained in law. The first appellate court was right in setting aside the decree and remanding the matter. Appeal was dismissed as it is misconceived. However, keeping the feet that the matter is an old one, the trial court shall make its earnest endeavour to decide the suit expeditiously and preferably within one year in accordance with law.

A Division Bench of the High court dismissed the special appeal in *Indian Oil Corporation Limited v. Modern Service Station*.³² The respondent/petitioner. M/S modern service station is a dealer to dispense HSD/petrol and agreement was signed between the service station and Indian Oil Corporation on 11.4.2011. The Retail Outlet (RO) had two dispensing units, manufactured by M/S Gilbarco Veeder Root (GVR). As per the rules, the dispensing units have to be periodically stamped by GVR and by Weights and Measures Department. On 23.3.2019 and 19.4.2019, the Weights and Measures Department had given

³⁰ AIR 2024 All 109; AIROnline 2024 All 158.

³¹ AIR 2024 All 114; AIROnline 2024 All 252.

³² AIR 2024 All 129; AIROnline 2024 All 230.

its report stating that 'Dispensing Unit is okay' so no need for calibration. The sales officers inspected and reported 'no variation in stocks' on 14.1.2020. Because of Covid pandemic, the government of India, by order extended the validity of the last existing 'stamping' till 30.9.2020. Therefore, the service station requested the Weights and measures department on 13.9.2020 to grant permission to the GVR engineer to break open the seal for stamping/software upgradation, which was last done a year back. Based on verbal directions from Indian Oil Corporation office representative, who visited the RO, the service station stopped dispensation of diesel with effect from 15.9.2020.

On 16.9.20, Mr. Girendra, the authorised service engineer of M/S GVR informed the RO that he had obtained permission from Weights, and Measures Department for breaking open the seal of the two dispensing units for software upgradation and stamping. Mr. Girendra, after opening the seal, prepared and inspection report wherein he had stated that both CPU cards had defects and two new cards were required for software upgradation. On 17.9.2020, a joint inspection team visited the RO and reported that both motherboards had been taken out from the dispensing units in the presence of Mr. Raja Babu Bansal (Dealers representative) and they had sealed and taken away the same. On 21.9.2020, RO received written instructions from the Assistant Manager, retail sales, Mathura I, of Indian Oil Corporation to stop sales from both dispensing units. Further, on 8.10.2020, the RO received a fact-finding letter indicating that irregularities were found in both the dispensing units, terming it as "critical irregularities". The RO replied on 12.10.2020 that after Mr. Girendra's visit in opening both the units on 16.09.20, the RO had no control over the dispensing units. It was also contended that the views and the independent opinion of the Original Equipment Manufacturer (OEM) had to be obtained before taking any decision. The RO filed a Writ Petition (C) No.23158/2020 (M/s Modern Service Station v. Union of India and others) which was disposed of by this Court on 18.12.2020 directing the respondents to conclude the pending enquiry expeditiously, preferably within four weeks. A joint inspection team that had conducted the inspection earlier on 17.9.2020, conducted the inspection again on 19.12.2020 in the presence of the authorised representative of RO, collected relevant parts of both units for further testing.

On 21.3.2021, a show cause notice was issued to the RO by Indian Oil Corporation, seeking an explanation within 15 days. In its detailed reply, the RO had observed unblemished track record, and in para 17 observed that everything irregular as found by Indian Oil Corporation was done by the engineer of GVR, Mr. Girendra. However, the dealership of RO/petitioner was terminated by Indian Oil Corporation by its order dated 5.10.2021. This order was appealed under section 8.9 of the marketing discipline guidelines, 2012,



and same was dismissed on 7.4.2022. The RO filed Writ petition (C) No. 13514 of 2022 which was allowed on 18.5.2023. Thereafter, the instant special appeal was filed by Indian Oil Corporation.

After hearing the parties, the division bench was of the view that the single judge had come to the right conclusion that when a particular defence which was taken by the petitioner was not considered by the Indian Oil Corporation, violate the principle of natural justice. The division bench further observed that when the main defence of the petitioner (RO) that the tampering was in fact, result of the act of Original Equipment Manufacturer and that the petitioner had no hand in it, it was not considered by Indian Oil Corporation, then definitely the petitioner's interest was prejudiced. The division bench dismissed the special appeal.

In *Amrendra Pratap Singh v. Anoop Kumar and others*,³³ the Lucknow Bench, set aside the order of the appellate court in granting temporary injunction dated 25.11.2023 as it cannot be granted against owner of land on the basis of registered sale deed executed after full consideration having been paid for the same. The order of the trial court was affirmed by the High Court.

A Division Bench of Lucknow bench in *M/S Docket Care Systems v. M/S Hariwill Electronics India Private Limited*,³⁴ heard an appeal under section 37 of the Arbitration and Conciliation Act, 1996, against the order passed by Commercial Court, Court No. 2, Lucknow. The appellant aggrieved of the award dated 07.10.2023 passed by the Micro, Small and Medium Enterprises (MSME) Council, filed petition under section 34 of the Arbitration and Conciliation Act, 1996, before the Commercial Court, Lucknow. Along with this an application seeking waiver of pre-deposit as required under section 19 of the MSME Act, 2006 was also filed. The application seeking waiver was dismissed by an order dated 19.02.2024. The Commercial Court directed the appellant to deposit 75% of the award amount within 3 weeks, failing which the Miscellaneous case shall stand dismissed by itself. When the matter came up before the Commercial Court on 12.03.2024, an application was attempted to be filed by the appellant seeking additional time to deposit the amount in compliance of the order dated 19.02.2024. The appellant had applied for loan from a bank which was under process and therefore 4 weeks' time may be granted. This application was neither received/entertained by the Commercial Court and by order dated 12.03.2024, dismissed the petition for non-payment of 75% of the award amount. While passing this order, the Commercial Court had deprived itself to exercise powers under section 19 of the

³³ AIR 2024 All 138; AIR Online 2024 All 149.

³⁴ AIR 2024 All 156; AIR Online 2024 All 494.

MSME Act, 2006. The High Court, after considering all the facts and circumstances, allowed the petition and the effective portion of the order of the Commercial Court was set aside. Accordingly, the appellant was directed to deposit the 75% of the award amount by 29th April 2024, if not done, the Commercial Court would be free to pass appropriate order in accordance with law.

In a case involving territorial jurisdiction of the Family court in *Dheeraj v. Smt. Chetna Goswami*,³⁵ particularly in a Custody case, the High Court upheld the order of the lower court in rejecting the petition and he held that there is no necessity to interfere in the orders of the lower court. Appeal was dismissed. In *M/S Amit Engineering, v. Superintending engineer*,³⁶ the prayer for setting aside of arbitral award by filing an application under section 11 of the Arbitration and Conciliation Act, 1996, at Allahabad was considered. The High Court found no illegality in the impugned order dated 7.3.2024 passed by the Consumer Court No.2, Lucknow, in arbitration case No. 126 of 2023 and rejected the petitioner's objections regarding lack of territorial jurisdiction at Lucknow and dismissed the appeal.

In *Bharatiya Rashtriya Raj Marg Pradhikaran v. Neeraj Sharma and others*.³⁷ Rejection of an application challenging the Arbitral award came before the court. In this, the appellant was not served a signed copy of arbitral award, but appellant, was aware of the award. Application by the petitioner for setting aside arbitral award given by the District judge, Mathura, dated 16.11.2019, was rejected as the arbitral award dated 28.7.2016 has attained finality and cannot be questioned at this stage and the High Court dismissed the appeal.

In an appeal under Article 227 of the Constitution of India in *Pramila Tiwari v. Anil Kumar Mishra and others*,³⁸ the necessity of registering wills was considered by a division bench. The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1951, as amended in 2004 came into conflict with the Registration Act, 1908. The court considered Articles 251 and 254 of the Constitution of India to resolve the conflict. The provision for compulsory registration of will under section 169 (3) of the state Act was repugnant to section 17, read with section 40 of the Registration Act, 1908 of the Union. The amendment in section 169 (3) of Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1951, was declared void to that extent. Wills in Uttar Pradesh are not required to be registered and a will for its non-registration will not be void whether before or after the Uttar Pradesh Amendment Act, 2004.

³⁵ AIR 2024 All 188; AIROnline 2024 All 633.

³⁶ AIR 2024 All 195; AIROnline 2024 All 592.

³⁷ AIR 2024 All 221; AIROnline 2024 All 635.

³⁸ AIR 2024 All 227; AIROnline 2024 All 696.



The Lucknow bench of the High Court, on appeal, set aside the order passed by the Controller in *Ibney Haasan v. Special Judge, E.C Act, Faizabad, and others*.³⁹ The Controller had no jurisdiction under section 57A of Uttar Pradesh Muslim Waqf Act, 1960. This Act was repealed with effect from 1.1.1996, and after a new enactment, the Waqf Act, 1995. The order passed by controller on 26.3.1996 under section 57A of Uttar Pradesh Muslim Waqf Act, 1960, and consequent requisition was set aside. Writ petition was allowed.

In an Appeal under Article 227 of the Constitution the right to use the passage in question to reach the peripheral road was considered by the Court in *Lajja Ram Memorial Shiksha Samiti v. Managing Director, J. P. Infratech Limited and another*.⁴⁰ The right to use passage to reach peripheral road was rejected by the Trial Court by an Order dated 17.01.2018 which was also affirmed by the District Judge. There was an alternative road provided by the Authorities which is wide enough, be it is little longer route as the petition lacks merit the High Court dismissed the Appeal.

In a special appeal, the High Court dismissed the Appeal in *Master Arjeet Pratap Singh v. State of Uttar Pradesh*, through its Principal Secretary, Department of Basic Education and others.⁴¹ The judgment of High Court in Writ (C) No. 9514 of 2024 (AIR Online 2024 All 721) Whereby the order of Block Education Officer, Muradabad, denying admission of the petitioner in pre-nursery class in Aryan International School for the academic session 2024–25 was set aside. However, this order directed the school to consider the application of petitioner (appellant) after considering all applications of ward no.16. The school is purportedly to be under provisions of Right to Education Act, 2009. A lottery for allotment of the school was conducted on 26.2.2024 and request of petitioner was rejected by the District Education Officer on the ground, 'wrong ward'.

The petitioner's pleadings were deficit and has not disclosed other schools available in his neighbourhood (in the same word no.15) or whether he has applied for admission under RTE Act in those neighbourhood schools or not. However, the applicant – writ petitioner also contended that the classification made by the respondent on the basis of 'ward' is violative of Article 21A of the Constitution of India. The district board, after considering the contentions of both the parties did not find any illegality or infirmity in the order of the single judge of the High Court and as the appeal stands devoid of merits and dismissed the special appeal.

³⁹ AIR 2024 All 235; AIR Online 2024 All 805.

⁴⁰ AIR 2024 All 262; AIR Online 2024 All 847.

⁴¹ AIR 2024 All 266; AIR Online 2024 All 759.

In *Uttar Pradesh Rajya Bhandaran Nigam Ltd, Lucknow and others, v. Uttar Pradesh, Purva Sainik Kalyan Nigam Ltd.*,⁴² An appeal against the judgement and decree dated 16.9.2023 passed in regular suit no. 17 of 2011, by District judge, Lucknow, and to set aside the award dated 16.1.2011 passed by the sole arbitrator in case no.28 of 2008. The High Court held that considering the facts and circumstances of the case, it does not call for any interference with the judgment dated 16.9.2013 by the District Judge, Lucknow dismissing the objection of appellant against the award dated 16.1.2011 passed by sole arbitrator in case no. 28 of 2008 and dismissed the appeal.

In *State of Uttar Pradesh and others, v. M/S Harish Chandra India Ltd*,⁴³ an appeal under section 37 of Arbitration and Conciliation Act, 1996, was filed after a delay of 224 days. The time limit under section 37 is 90 days and delays can be condoned up to 30 days. Appeal filed after 120 days (90+30), no matter how sufficient cause for delay is, cannot be allowed. Appeal dismissed as time barred. A direction was also issued to Principal Secretary (Law), government of Uttar Pradesh to make necessary steps in order to avoid the filing of appeals beyond the statutory time limits by the government.

In an appeal pertaining to election petition in *Mamta v. Krisha Devi and others*,⁴⁴ writ petition was allowed. In this case, the petitioner was elected as Pradhan of Gram Panchayat, held on 26.4.2021. Respondent no.1 filed an election petition on 30.6.2021 Uttar Pradesh Panchayat Raj Act, 1947, read with rule 3 (1) of Rules, 1994. The prescribed authority rejected the objection raised by the petitioner by order dated 5.8.2022. Hence this appeal by the appellant before the High Court. The petitioner also contended that the election petition was not filed in person by the respondent no.1 and was not accompanied by treasury challan for ₹50, both conditions being mandatory to file an election petition. After considering all the facts and circumstances, the High Court, held that the order dated 5.8.2022, rejecting petitioners' objections (dated 8.7.2022) as well as the order dated 2.7.2021 entertaining the election petition by Prescribed Authority were set aside. The objection filed by the petitioner dated 8.7.2022 is allowed and election petition filed by respondent no.1 was dismissed.

4. Conclusion

The Allahabad High Court during 2024 decided many cases covering diverse aspects of the Constitution of India under Articles 226 and 227. Its approach in the matter of Overseas Indian Citizenship card and appeals on government contracts needs to be appreciated. In doing so, the High Court systematically followed its own precedents, the precedents set up by the Supreme Court as well as referring to the decisions of other High Courts as well.

⁴² AIR 2024 All 280; AIROnline 2024 All 1020.

⁴³ AIR 2024 All 301; AIROnline 2024 All 949.

⁴⁴ AIR 2024, All 312; AIR online 2024 All 1150.



However, no ground breaking decision could be found that offers a new orientation to the existing literature on the subject, one that could have been upheld as a foundational principle and guiding jurisprudence. And hence, no new law is developed; No new jurisprudence in the field has been enriched; and no new landmark ruling that might reorient the doctrinal foundations of constitutional law emerged.