

PETITIONER:
THE FINANCIAL COMMISSIONER (TAXATION)PUNJAB & ORS.

Vs.

RESPONDENT:
HARBHAJAN SINGH

DATE OF JUDGMENT: 22/03/1996

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
G.B. PATTANAIK (J)

CITATION:
JT 1996 (4) 326 1996 SCALE (3)561

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Leave granted.

We have heard learned counsel on both the sides.

This appeal relates to the grant of 11 kanals 7 marlas of land in revenue estate of Karbara in Ludhiana District. The respondent and his brother Jawahar Singh, s/o Gurdit Singh being displaced persons, his brother had applied for transfer of 7 kanals 15 marlas. It was accordingly granted to him and it became final by proceedings dated August 17, 1966. Thereafter, in the collusion with the revenue officials the respondent got his name mutated in the records with regard to the land in the year 1967 and asked for assignment of the same under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (for short, the 'Act'). One Mr. J.S. Quami, Settlement Officer granted assignment to the respondent on August 29, 1969. Thereafter, when it was noticed that the mutation was obtained by playing fraud, the self-same officer as Settlement Commissioner, by proceedings dated 16.9.1971, set aside the order. It came to be challenged by filing of a revision under Section 33 of the Act. The Financial Commissioner (Taxation), Government of Punjab upheld the cancellation by his proceedings dated November 25, 1971. When the respondent filed the writ petition, the learned single Judge by order dated January 12, 1983, dismissed the writ petition. The Division Bench by judgment and order dated January 12, 1989 in LPA No.526/82 has set aside the order on the finding that J.S. Qaumi having exercised the power as Settlement Officer has no jurisdiction to sit over the same order as appellate authority as Chief Settlement Commissioner. Therefore, the order is vitiated by error of law.

The question is: whether the order passed by J.S. Qaumi as Settlement Officer could be corrected by the Financial Commissioner (Taxation) under Section 33 of the Act? Section 33 reads as under:

<SLS>

"33. The Central Government may at any time call for the record of any proceeding under this Act and may pass such order in relation thereto as in its opinion the circumstances of the case require and as is not inconsistent with any of the provisions contained in this Act or the rules made thereunder.'

<SLE>

A reading thereof would clearly indicate that the Financial Commissioner (Taxation) as a delegate of the Central Government has power to revise any order after calling for record in relation thereto and if in his opinion the circumstances of the case require and the order passed is not inconsistent with the provisions of the Act and rules made thereunder, he has got power to correct the same. It is true, as rightly contended by the learned counsel for the respondent, that J.S. Qaumi having granted assignment as Settlement Officer, could not have sit over his order as Chief Settlement Commissioner. This is the settled legal position and needs no reiteration. This Court in Gulab Ajwani & Ors. vs. Saraswati Bai [(1977) 3 SCC 581] had laid the law. But the question is not resolved with the above finding alone. As stated earlier, the Financial Commissioner (Taxation) as a delegate of the Central Government has been invested with the power under Section 33 to revise any orders. All the authorities have held that after his brother Jawhar Singh had been granted assignment granted to them, the respondent in collusion with lower level revenue officials had played fraud and obtained another assignment. The Commissioner under Section 33, therefore, has power to correct the same in his revisional jurisdiction though it was brought to his notice by way of revision by the respondent himself treating it to be a suo review. Under these circumstances, the High Court was not justified in quashing the orders.

The appeal is accordingly allowed. The order of the Division bench is set aside and that of the single judge and the authorities upheld. No costs.