



HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 6547 of 2025

Rajendra Tyagi And 2 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Ronak Chaturvedi
Counsel for Opposite Party(s) : G.A.

Court No. - 88

HON'BLE VINOD DIWAKAR, J.

1. Heard Shri Ronak Chaturvedi, learned counsel for the applicants and Shri Anoop Trivedi, learned Additional Advocate General assisted by Shri Paritosh Kumar Malviya, learned A.G.A. for the State.

2. The present case was initially listed on 22.02.2025, on which date, the learned counsel for the applicants raised certain issues concerning the alleged misuse of police powers in invoking the provisions of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 against the applicants. Learned State Counsel, in response, had sought and granted time to place on record the relevant notification pertaining to the delegation of powers of the District Magistrate to the Commissioner of Police for approval of the gang chart under the commissionerate system.

3. Thereafter, this Court directed the Additional Chief Secretary (Home) to file a personal affidavit in compliance with the directions contained in paragraphs 4 and 5 of the order dated 03.03.2025. Although the Additional Chief Secretary (Home) and the Commissioner of Police, Ghaziabad filed their respective affidavits, the justification addressing the core issue involved in the case was found to be lacking. Subsequently, the matter was listed on 11.03.2025 and, thereafter, upon nomination by Hon'ble the Chief Justice, on 25.03.2025, 02.04.2025, 15.04.2025, 25.04.2025, 13.05.2025, 22.05.2025, 08.07.2025, 04.09.2025, 11.09.2025, 18.09.2025, 10.11.2025, 12.11.2025, 27.11.2025, 09.12.2025, 19.12.2025, and 08.01.2026.

4. On 12.11.2025, Shri Anoop Trivedi, learned A.A.G., sought and was granted time to obtain instructions from the department with regard to the

issues highlighted by this Court in paragraph 5 of the order dated 11.03.2025. Thereafter, this Court passed a detailed order on 27.11.2025 directing an officer not below the rank of Secretary, Home Department, Government of Uttar Pradesh, with the prior approval of the competent authority, to file an affidavit in compliance with the requirements set out in paragraphs 10 and 11 of the said order. The Director General of Police (Prosecution) was also directed to file an affidavit satisfying the requirements mentioned in paragraph 10.1 thereof.

5. In compliance with the order dated 27.11.2025, an affidavit was filed by the Secretary (Home). In brief, the affidavit highlights the purported "*noble objective*" behind adopting the commissionerate system described as a national best practice in certain districts of the State of Uttar Pradesh, with the stated aim of achieving zero tolerance towards crime and criminals, on the lines of Delhi, Mumbai, Bengaluru, and Hyderabad, and this court has no quarrel on this, as earlier stated. However, the said affidavit fails to satisfy the requirements of the order dated 27.11.2025 in its letter and spirit.

6. So far as the compliance of paragraph 10.1 is concerned, the Director General of Police (Prosecution) seeks and is granted a week's time to comply with the same.

7. Upon perusal of the affidavit(s) filed on behalf of the Home Department, it *prima facie* appears that the officer(s) concerned have either failed to advert to the order(s) rendered by this Court or have approached the matter in a lackadaisical manner. Such an approach seemingly proceeds on the erroneous assumption that the power to issue notifications, being vested in the executive branches, may be exercised without due application of mind, by resorting to unfettered discretion and without examining the consequential effects thereof. While this Court refrains from delving into the reasons underlying such conduct, it cannot remain a mute spectator and would not hesitate to exercise the powers vested in it in the interest of the citizens of the State and for upholding the sanctity and authority of the judicial process.

8. This Court is mindful of the fact, even the most well-intentioned and ostensibly noble ideas are liable to miscarry when placed in the hands of poor administrators namely, those who are inadequately trained and lacking in institutional competence, yet highly ambitious and adept at manoeuvring

constitutional authorities. A fundamental flaw of traditional bureaucratic ethics lies in its tendency to treat morality as something external to the day-to-day practice of administration, rather than as an integral component of decision-making. Discretion conferred on civil servants by the legislative wing of the Government is intended to be exercised strictly in furtherance of the policy and object underlying the statute. The policy and purpose of any gazette notification must, therefore, be ascertained by construing the parent enactment in the present case, the U.P. Gangsters Act as a whole. Courts have had no difficulty in reasserting their rights to intervene in cases where administrative decisions are irrational, abusive and arbitrary. Courts, in the other words, instead of acting as a guarantors of rule of law, have taken to outsourcing this obligation to the executive branch for effectively implementing the State policy, and not otherwise.

9. In view of the aforesaid deliberations, a '*show-cause notice*' is hereby issued to the Additional Chief Secretary (Home), requiring him to explain the reasons and disclose the legal impediments, if any, which have resulted in the repeated failure of the Home Department to furnish the specific and pointed details sought by this Court through its orders passed from time to time.

10. Put up this case as fresh on 20.01.2026 for compliance.

11. The Registrar (Compliance) is directed to transmit a copy of this order forthwith to the office of Additional Chief Secretary (Home), and learned Additional Advocate General appearing for the State for ensuring necessary compliance.

January 9, 2026
Anil K. Sharma

(Vinod Diwakar,J.)