
(1984) 12 AHC CK 0036
In the Allahabad High Court
Case No : Writ Petition No. 1087 of 1970

Babu Lal

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 10-12-1984

Acts Referred:

Constitution of India, 1950 — Article 14
Opium Act, 1878 — Section 5

Citation : (1984) 12 AHC CK 0036

Hon'ble Judges : U.C.Srivastava, J and S.C.Mathur, J

Final Decision : Allowed

Judgement

S.C. Mathur, J.—The petitioner is aggrieved by the recovery certificate issued for recovery of certain amount claimed to be due from the petitioner as duty levied under the provisions of the U.P. PoppyHeads (Amendment) Rules, 1959 framed under Section 5 of the Opium Act. The petitioners case is that Section 5 of the Opium Act was ultra vires of Article 14 of the Constitution and accordingly the rules framed thereunder were also ultra vires. A similar challenge against the validity of the Rules was raised in Writ Petition No. 955 of 1969 (Rameshwar Prasad Krishan Gopal and others v. State of U. P. 1973 ALJ 739). This Court held that the Rules were invalid. We have been informed that the judgment of this Court is under challenge before their Lordships of the Supreme Court. It has not been stated by the counsel for either party that the operation of this judgment has been stayed. This petition is accordingly to be decided in accordance with the judgment of this Court in Rameshwar Prasad Kishan Gopal's case. In view of the fact that the Rules are ultra vires the recovery certificate issued against the petitioner is invalid and cannot be enforced.

2. In view of the above the writ petition is allowed and the recovery certificate and the citation (Annexure No. 1 to the writ petition) are hereby quashed. The costs of this petition shall be easy.