
(1998) 12 AHC CK 0040
In the Allahabad High Court
Case No : C.M.W.P. No. 13325 of 1992

Baleshwar Singh and others	Vs	APPELLANT
State of U.P. and others		RESPONDENT

Date of Decision : 09-12-1998

Acts Referred:

Constitution of India, 1950 — Article 19(1)
Uttar Pradesh Establishment and Regulation of Saw Mills Rules, 1978 — Rule 3

Citation : AIR 1999 All 84 : (1999) 1 AWC 125 : (1999) 2 RCR(Civil) 612

Hon'ble Judges : R.K. Singh, J;B.K. Roy, J

Bench : Division Bench

Advocate : Smt. Anita Tripathi, for the Appellant;

Final Decision : Dismissed

Judgement

B.K. Roy and R.K. Singh, JJ.—The prayer of the petitioners, who are owners of Saw Mills of district. Basti, is to quash Rule 3 of the U. P. Establishment and Regulation of Saw Mills Rule. 1978 and to restrain the respondents from interfering with running of their Saw Mills.

2. Smt. Anita Tripathi, learned counsel appearing for the petitioners contended that the impugned Rule is liable to be quashed inasmuch as it imposes unreasonable restriction on the right of the petitioners, who are having a three horse power operating Saw Mills to carry on their trade/business as contemplated under Article 19(1)(g) of the Constitution of India in asking the petitioners for registration of their Saw Mills ; that in view of Rule 12 of the Rules since the petitioners were engaged in ordinary operation in the domestic carpentry restriction cannot be imposed and accordingly, the petitioners moved Respondent No. 2. Prabhagiya Nideshak Samagik Vaniki Van Prabhag, Basti but he observed that he will see that operation of the Saw Mills of the petitioners is stopped by all means.

3. Sri P. K. Bisaria, learned standing counsel appearing on behalf of the

respondents, on the other hand. contended that the submissions made by Smt. Tripathi are devoid of substance. What has happened is apparent from the facts stated in the counter-affidavit sworn by the Forest Officer, Basti. to which no rejoinder has been filed by the petitioners. Accordingly, this writ petition is liable to be dismissed.

4. In the counter-affidavit filed on behalf of the respondent Nos. 1 to 3, it has been categorically stated, inter alia, that the petitioners were operating their Saw Mills illegally ; that as per the Indian Forest Act and the Rules framed thereunder, it was mandatory on the part of the petitioners to obtain licences to operate their Saw Mills which they never obtained ; that uncontrolled operation has resulted into illegal cutting of green trees and has disturbed the ecological balance ; that action has been taken against the petitioners in the light of aforementioned fact and circumstance as per the Rule and In the interest of social and national Interest ; that the demand for fee for the Saw Mills were made as per the Rule ; that the petitioners do not keep any register, which is in violation of Rule 5 of the Rules which requires maintenance of measurement of logs at the Saw Mills, its income and expenditure, detail receipt and despatch thereof, which is required to be produced at the time of inspection by any Forest Employee/Officer ; that the petitioners do not come within the category of the domestic carpentry rather they are owner of Saw Mills ; that it is important to note that under the Rules no exemption has been provided for grant of licence to any Saw Mills ; that it has come to the light that the trees are illegally cut from the Forest and brought at the nearest Saw Mills to change as slabs and thus it is difficult to find the woods ; and that this writ petition is liable to be dismissed with cost.

5. The facts stated in the counter-affidavit, extracted as above, speak for themselves. No rejoinder affidavit has been filed by the petitioners denying those facts. It cannot be held that their operations are of an ordinary domestic carpenter.

6. Rule 3 in question reads thus :

"Within the limits of any reserved or protected forests and within a radius of 80 kilometers of such limits no person shall establish, erect or operate any existing Saw Mill or machinery for converting or cutting timber and wood without obtaining a licence from the Divisional Forest Officer concerned."

7. Rule 3 shows a reasonable restriction.

8. The Hon''ble Supreme Court has taken a serious view of the matter in regard to existence of Saw Mills in/near/around any forest and has passed orders prohibited their operation for maintenance of the forest wealth and ecological balance. The fact that the petitioners are owning Saw Mills, which operate by Electric Motor 3 H.P. will not take them beyond the purview of the Act, as strenuously argued by Mrs. Tripathi.

9. For the aforementioned reasons, we are of the view that this writ petition

lacks merit. It is, dismissed accordingly.