
(2014) 08 AHC CK 0011
In the Allahabad High Court
Case No : C.M.W.P. No. 40965 of 2014

Chand Aloo Company and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 07-08-2014

Acts Referred:

Citation : (2014) 6 AWC 6182

Hon'ble Judges : Vivek Kumar Birla, J;Amreshwar Pratap Sahi, J

Bench : Division Bench

Advocate : Vinod Dwivedi and Rahul Pandey, Advocates for the Appellant; Satish Mandhyan and B.D. Mandhyan, Advocates for the Respondent

Judgement

Amreshwar Pratap Sahi and Vivek Kumar Birla, JJ.—Heard Sri Vinod Dwivedi, learned counsel for the petitioners and Sri B.D. Mandhyan for the respondent Mandi Samiti.

2. This petition has been filed by wholesale dealers of vegetables and fruits of the district of Fatehpur contending that the notice dated 19th July, 2014 for shifting of the market to the market yard established by the Mandi Samiti should be quashed.

3. Learned counsel submits that this shifting is ordered without making any provision for appropriate accommodation and without complying with the provisions of Section 8 of the U.P. Krishi Utpadan Mandi Adhiniyam, inasmuch as, the State Government has not taken into any consideration of facilities while issuing the said direction in respect of the objections or the possible inconvenience to be faced by the petitioners.

4. Sri Mandhyan submits that the notification has been issued after taking due care and not only this, shops have been constructed for the benefit of wholesale dealers that have been offered for auction vide publication in the newspapers dated 31st July, 2014 copy whereof has been placed before the court.

5. Learned counsel for the petitioner submits that the aforesaid offer made by the respondent is not in conformity with the Adhinyam and therefore, the petitioners' business shall suffer immense loss if they are compelled to shift their business.

6. It is urged by Sri Dwivedi that the present site which has been chosen for the market yard is almost 10 kilometers away and it will ruin the running business of all the petitioners.

7. Having considered the submissions raised, the Apex Court went back in the case of Rameshchandra Kachardas Porwal vs. State of Maharashtra, AIR 1981 1127 (SC) . has held that the shifting of a market yard is a legislative act.

8. In view of the aforesaid pronouncement of the Apex Court, the petitioners have absolutely no right to question such an enactment unless it can be shown that it was legally incompetent or violates the fundamental rights guaranteed by the Constitution or is otherwise ultra vires the provisions of the statute.

9. No material has been brought before the court that the notifications are invalid on account of any legal deficiency and therefore, it is not possible in view of the aforesaid pronouncement to enter into the subjectivity of the wisdom of such notification. The shifting has to be carried out in public interest and once the market yard has been notified, there is no occasion for this Court to quash the said notification.

10. So far as the information given to the petitioners about tenders and auction is concerned in respect of shops to be allotted, it is open to them to also participate in the same.

11. The writ petition is dismissed with the aforesaid observations.