(1970) 08 AHC CK 0009

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No 3133 of 1969

Lakshmi Narain APPELLANT

Vs

State of UP and Others RESPONDENT

Date of Decision : 26-08-1970

Acts Referred:

Citation : (1970) 40 AWR 716

Hon'ble Judges : R.S. Pathak, J;R.L. Gulati, J

Bench : Division Bench

Advocate : M.P. Bajpai, for the Appellant;

Final Decision : Dismissed

Judgement

R.S. Pathak, J.—This petition Under Article 226 of the Constitution was filed originally by a number of Petitioners, but subsequently learned Counsel for the Petitioner stated that the petition may be treated as having been filed by one Petitioner alone, namely, Lakshmi Narain. We proceed accordingly.

2. The Petitioner is a resident of Fatehganj East. Assessment lists contemplated by Rule 7 of the UP Town Areas Circumstances and Property Tax (Assessment and Collection) Rules for the assessment years 1967-68 and 1968-69 were prepared be the Town Area Committee sometime after January 20, 1967 and January 20, 1968 respectively. The Committee issued notices Under Rule 9 on December 4, 1968 calling for objections, if any, to be filed upon December 25, 1968. It fixed December 28, 1968 for hearing objections in respect of both assessment years. The Petitioner filed his objections. Thereafter the assessment lists for the two years were finalised by the Committee. The lists were then submitted to the Sub-Divisional Magistrate, Faridpur, who it is said, made certain alterations and returned the altered assessment lists to the Committee. The Petitioner appealed against the assessments made for the two years but without s access. The Petitioner now prays for relief against the assessments.

3. The only contention of Sri M.P. Bajpai, learned Counsel for the Petitioner, is

that Rule 7 is mandatory and it was incumbent upon the Committee to frame the assessment lists before January 20 of the relevant year and inasmuch as the lists were framed subsequently the lists so prepared were without authority of law and therefore could not be the basis of any demand for tax from the Petitioner. We have carefully considered the contention raised and we are of opinion that there is no force in it.

4. Rule 5 provides that the circumstances and property of an Assessee pertaining to the year ending on the 31st day of December previous to the date of assessment shall, when possible, be taken as the basis of assessment. Rule 7 reads:

* * * * * *

Upon such list being prepared the Committee is required by Rule 8 to give public notice of the place where the list, or copy thereof, may be inspected. Rule 9 provides for filing of objections to the assessment, a date being fixed not earlier than one month after the giving of public notice, as required in Rule 8, for the purpose of considering objections. Upon finalisation of the list, it is required to be submitted to the Prescribed Authority or to the District Magistrate for confirmation. Upon confirmation by the authority it is declared by public notice to be open for public inspection.

5. Now, there is nothing in these rules which can persuade us to the conclusion that the preparation of the list by the Committee by January 20 is a mandatory requirement. It has not been shown on behalf of the Petitioner that the date of January 20 has any especial significance in relation to the procedure provided under the rules for the levy of the tax. There is nothing in the Act or the Rules to suggest that if the list is not prepared by January 20, any legal consequences will follow. If a list is prepared for instance, a day after January 20, it cannot be said, we think, that the list is without authority of law. It seems to us that the date of January 20 has been prescribed by the rules merely by way of guidance for the committee so that the list is prepared and finalised after considering all objections in sufficient time to enable the tax to be imposed in respect of the relevant financial year. The matter was considered by Oak, J. (as he then was) in Kanchedi Lal v. Town Area Committee, Mahroni, Jhansi 1962 AWR 898, Considering a similar contention he observed:

But when the rules are read together, the general plan appears to be this. The financial year commences on the 1st of April each year and ends on the 31st of March in the following year. The assessment list should be completed by the 20th of January, immediately before the commencement of the assessment year to which the list relates. According to that plan, the assessment list for the financial year 1957-58 should have been ready by the 20th of January, 1957. But the Respondent did not take up this work until February, 1958. I agree with Mr. M.L. Agarwal, that there was inordinate delay in preparing the assessment list for the year 1957-58. But the delay does not by itself vitiate the entire assessment proceedings. Rule 7 appears to be directory and not mandatory. It is, therefore, permissible to prepare an assessment list even if a Town Area Committee is not able to adopt the time table prescribed by Rule 7.

With respect we find ourselves in entire agreement with the learned judge.

6. In our opinion, merely because the assessment lists were not completed on or before January 20 does not make the lists without sanction of law aid inoperative. The contention of learned Counsel for the Petitioner is rejected.

7. The petition fails and is dismissed. In the circumstances, however, there is no order as to costs.