
(1996) 08 AHC CK 0119
In the Allahabad High Court
Case No : C.M.W.P. No. 9354 of 1994

Maresh Chandra Joshi

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 23-08-1996

Acts Referred:

Citation : (1996) 3 UPLBEC 2199

Hon'ble Judges : V.P. Goel, J;Ravi S. Dhavan, J

Bench : Division Bench

Advocate : Umesh Narain Sharma and Suneet Kumar, for the Appellant;

Final Decision : Dismissed

Judgement

Ravi S. Dhavan and V.P. Goel, JJ.—This petition from Nainital accepts the illegality which the Petitioner has committed, but seeks the condonation of it on payment of fine. The contention of the Petitioner is that he has raised some illegal constructions against the bye-laws which regulate building activities within the town of Nainital, but inasmuch as constructions of other persons have been compounded, thus, the Respondents, particularly, the Secretary, Nainital Lake Zone Special Area Development Authority, Nainital. Respondent No. 3 is obliged to condone the illegality and the offence which the Petitioner has committed and compound the offence on payment of fine.

2. Nainital, as a hill town, has special bye-laws. Urbanisation in this town has to be strictly regulated. In the petition itself, the Petitioner admits that what he has constructed is against the bye-laws. It is not that the Petitioner may have constructed buildings which the law permitted, but were made unauthorisedly and the construction could be compounded. This is not the situation. What the Petitioner has done is to violate the law which regulate building activities and has constructed what the law does not permit. Such illegalities are incurable, the Supreme Court had made this clear 20 years ago in the matter of Shri K. Ramadas Shenoy Vs. The Chief Officers, Town Municipal Council, Udipi and

Others, .

3. Merely because others may have violated the law and whatever may be the reason that illegal activity of others is being overlooked is no ground that the Petitioner should also follow suit and receive an order to overlook the violations which he has committed. Nainital is a town in the mountains. Indiscriminate building activity in this region has played havoc with the ecological balance of the region. There is no error manifest or otherwise or any illegality which the Respondents, the State of U.P. or the Nainital Lake Zone special Area Development Authority, may have committed which needs to be certified as such. It is the other way round. The Petitioner has violated the law and built what the law prohibits. This illegality is incurable and cannot be compounded.

4. This writ petition is misconceived. The Petitioner may remove his constructions within two months from today failing which the Respondents will be at liberty to demolish them without further notice to the Petitioner. The petition is dismissed.

The interim order of 8th April, 1994 is discharged.