
(2018) 04 UK CK 0029

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 580 Of 2017

MOHAN SINGH BISHT

APPELLANT

Vs

STATE OF UTTARAKHAND AND OTHERS

RESPONDENT

Date of Decision : 09-04-2018

Acts Referred:

Uttarakhand Panchayat Raj Act, 2016 — Section 22, 23, 46(5), 46(11)
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 117

Citation : (2018) 04 UK CK 0029

Hon'ble Judges : SUDHANSHU DHULIA, J

Bench : Single Bench

Advocate : Sudhir Kumar, Yogesh Pandey, Kishore Kumar, K.S. Mehta

Final Decision : Disposed Of

Judgement

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Petitioner before this Court is a villager belonging to village Gora Paraw which is a Gram Sabha known as Gora Paraw Gram Sabha. Petitioner has a

private land on which he is holding weekly haat bazaar.

The Zila Panchayat, Nainital vide its advertisement dated 12.3.2017 invited short term bids for holding haat bazaar in near about 45 designated places

under the Zila Panchayat. One of the mandatory conditions was that the person who applies to hold the haat bazaar must furnish certificate of

availability of land on which he wants to hold the haat bazaar.Â

Petitioner has challenged the aforesaid advertisement, inter alia, on the ground that the Zila Panchayat does not have the power to regulate haat

bazaars, particularly on private lands. In fact, the contention of the petitioner is that none of the local bodies including the Zila Panchayat has the

power to regulate the haat bazaars, particularly on private lands.Â

As of now, petitioner is continuing to hold his haat bazaar on his private land. The question before this Court is whether the petitioner can be allowed

to hold the haat bazaar unregulated and who is actually the regulator who can control such haat bazaar, whether it is Zila Panchayat or Kshetriya

Panchayat or Gram Panchayat?Â

Learned Counsel for the petitioner relied upon the new Act made applicable in the State of Uttarakhand with effect from 7th April 2016 known as the

Uttarakhand Panchayat Raj Act, 2016 (Act No. 11 of 2016). Prior to this date, in the erstwhile State of Uttar Pradesh, U.P. Panchayati Raj Act was

applicable for the three-tier Panchayati system of Gram Panchayat, Kshetriya Panchayat and Zila Panchayat. Now, the aforementioned new

consolidated Act regulates the three-tier Panchayati system in the State of Uttarakhand. Section 22 of this Act defines some of the powers of the

Gram Panchayat. Section 22 reads as under:

â??(1) Subject to the such conditions as may be specified by the State Government through notification, may provide all or any of the following

functions to the Gram Panchayat,-

(i) make planning for development of Panchayat and after approval of Gram Sabha forward to the prescribed authority;

(ii) prepare annual budget of Gram Sabha and after passing from Gram Sabha, forward to the prescribed authority;

(iii) to help in performance to have relief in the natural calamity;

(iv) to manage voluntary donation of work and contribution for community works;

(v) to maintain necessary data and data base of the Panchayat;

(vi) to present/submit the detail of performed works by the Gram Panchayat in the meeting of Gram Sabha;

(vii) to maintain information register in the subject of non friendly inter tracer from the area of Gram Sabha;

(viii) other functions who is fall in his jurisdiction under this Act or as delegated by the higher level;

(ix) Arrangement and management of land;

Provided that it does not include the transfer of any property for the time being vested in the Gram Panchayat under section 117 of the Uttar Pradesh

Zamindari Abolition and Land Reforms Act, 1950 (as applicable in Uttarakhand State) or under any other provision of that Act or arrangement by the

Government on this matter,

- (x) the preservation, maintenance and development of forests and trees;
- (xi) the maintenance and development of abadi sites and village communications;
- (xii) the management of hats, bazare and melas;
- (xiii) the maintenance of development of fisheries and tanks;
- (xiv) the rendering of assistance in the consolidation of holdings the conduct and prosecution of suits and proceedings by or against the Gram

Panchayat relating to or arising out of the functions of Samiti;

- (xv) the performance of functions specifically assigned to the Land Management Committee under the U.P. Zamindari Abolition and Land Reforms

Act, 1950 or any other enactment; and

- (xvi) any other matter relating to such management, preservation and control as may be prescribed;

As per Section 23 of the Act, one of the functions is that subject to such conditions as may be specified by the State Government from time to

time, a Gram Panchayat shall perform the following function, namely, regulation of melas, markets and hats in Panchayat areas.

Sub-section (5) of Section 46 of the Act provides as under:

the panchayat may recover fee with made byelaws on following jurisdiction-

- (a) fee on vehicles who is running within the only Gram Panchayat jurisdiction;
- (b) sanitary fee if the Gram Panchayat made provisions for sanitary;
- (c) fee on drinking water and irrigation if the Gram Panchayat made provisions for drinking water and irrigation;
- (d) fee on Haat market and fairs;

Sub-section (11) of Section 46 of the Act further states that If any villagers to keep Haat Market in the Gram Panchayat than as per determined

the provisions of issuing license of Haat Market personally as may be prescribed.

In view of the aforesaid provisions, there is no room of any kind of doubt that it is the Gram Panchayat which has been given powers to make the

byelaws for the purpose of haat bazaar within its jurisdiction and to recover fee

on haat bazaar and fairs. Zila Panchayat has absolutely no control on the haat bazaars.Â Â Â

It is hereby directed that from now in a village, the Gram Panchayat shall hold haat bazaars. This writ petition stands disposed in the aforesaid terms.Â Â Â Â