

(1996) 02 AHC CK 0067
In the Allahabad High Court
Case No : Writ Petition No. 508 (M/B) of 1996

Rajendra Singh

APPELLANT

Vs

Apar Mukhya Adhikari Zila Panchayat, Lucknow and Others

RESPONDENT

Date of Decision : 22-02-1996

Acts Referred:

Uttar Pradesh Kshetra Panchayat and Zila Panchayat Adhiniyam, 1961 — Section 78(1) (d)

Citation : (1996) 02 AHC CK 0067

Hon'ble Judges : S.H.A.Raza, J and I.P.Vasishta, J

Final Decision : Disposed Of

Judgement

1. We have heard the learned counsel for the parties on merit of the writ petition, itself. Contention of the petitioner in this petition, is that since the year 1982, on his own land, the petitioner has been holding the market and which continued till last January, 1996. Petitioner had earlier applied for grant of licence from Zila Parishad for holding such a market, but it was yet granted and his representation to that regard is still pending, which has not been disposed of. In the meantime, the Commissioner directed that as the petitioner did not possess the licence, hence he cannot hold the market. Adhyaksh, Zila Parishad, protested to the Commissioner by writing a letter to him on 6/1/1996, in which he urged that the licence for holding cattle market issued in favour of respondent Kunwar Urfi Asif be cancelled, which was given to him by the Upar Mukhya Adhikari.

2. Under Section 78 (1) (d) of the U. P. Kshetra Panchayat and Zila Panchayat Adhiniyam, Mukhya Nagar Adhikari possess the powers, subject to the control of Adhyaksh to grant refuse, suspend and withdraw any licence, power to grant which is conferred by Act, or by Rules or Regulations made thereunder.

3. Under Section 239 of the said Act, Zila Panchayat has been vested with the power to frame byelaws for holding such market. It has been brought to the notice of this court that the Zila Parishad has framed certain byelaws in that regard. As those byelaws are not relevant for consideration of this case, we

refrain ourselves from referring the same.

4. Under Section 78 of the Act, undoubtedly the licencing authority is the Chief Executive Officer, but he has to act, under the control of the Adhyaksh, Zila Parishad.

5. The question as to whether the petitioner is entitled for the grant of licence or not, or as to whether respondent No. 3 is disentitled for the grant of licence or not, can be looked into by the licencing authority.

6. In view of aforesaid situation, we direct the Executive Officer, Zila Parishad to consider the grant of licence in favour of the petitioner on such terms and conditions, he deems fit and proper to impose, in accordance with byelaws, within a period of two weeks the date a certified copy of this order is produced before him. It is further provided that the order of the Executive Officer shall be subject to the final order which may be passed by the Adhyaksh, Zila Panchayat.

7. With the aforesaid directions the writ petition is disposed of.