

(1999) 08 AHC CK 0060
In the Allahabad High Court
Case No : C.M.W.P. No. 34346 of 1991

Rajkumar Gupta and others

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 05-08-1999

Acts Referred:

Ancient Monuments and Archaeological Sites and Remains Act, 1958 — Section 38
Ancient Monuments and Archaeological Sites and Remains Rules, 1959 — Rule 8
Constitution of India, 1950 — Article 226

Citation : (1999) 4 AWC 2958 : (1999) AWC 2958 : (1999) 3 UPLBEC 1917

Hon'ble Judges : Onkareshwar Bhatt, J;D.S. Sinha, J

Bench : Division Bench

Advocate : Saghir Ahmad, for the Appellant; Shambhu Nath Sarivastava, S.C.,
for the Respondent

Judgement

D. S. Sinha, J.—Heard Shri Saghir Ahmad, learned counsel appearing for the petitioners and Shri Shambhu Nath Srivastava, learned senior standing counsel of the Central Government representing the respondents, at length and in detail.

2. The vires of Rule 8 (d) of the Ancient Monuments and Archaeological Sites and Remains Rules, 1959. (hereinafter called the "Rules") made by the Central Government in exercise of powers conferred upon it u/s 38 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958, is under challenge in this petition under Article 226 of the Constitution of India.

3. It is not disputed that the vires of Rule 8 (d), aforesaid, was considered by a Division Bench of this Court in Virendra Kumar Chadda v. Union of India and others, Civil Misc. Writ Petition No. 10714 of 1991, and the writ petitions connected therewith. The Division Bench vide its Judgment and order dated September 10, 1992, upheld the vires of Rule 8 (d) of the Rules and dismissed the petition with certain directions. Thus, the controversy raised in the instant petition is no longer res Integra.

4. The Court is not persuaded to take a view contrary to the view taken by the

Division Bench of this Court In the case of Virendra Kumar Chadda (supra).

5. In the result, the petition fails, and is dismissed subject to the directions contained in the penultimate paragraph of the judgment of the Division Bench dated September 10, 1992 in the case of Virendra Kumar Chaddha (supra). The interim order dated November 26, 1991 is vacated. There is no order as to costs.

6. Before parting with the case, the Court considers it necessary to mention that prayer for adjournment of the hearing of the case was made by Shri Saghir Ahmad. learned counsel of the petitioners, on the ground of illness of Shri S. C. Budhwar. learned senior Advocate, who, according to Shri Saghir Ahmad, had instruction to argue the case on behalf of the petitioners. The Court declined to entertain the prayer In view of the fact that question raised in the petition is fully covered by the Division Bench's decision of this Court in the case of Virendra Chadda (supra), and adjournment of the hearing of the case would have served no useful purpose.