
(1978) 12 AHC CK 0052
In the Allahabad High Court
Case No : Civil Misc. Writ No. 4933 of 1978

Rojan Ali

APPELLANT

Vs

The Divisional Forest Officer and Others

RESPONDENT

Date of Decision : 05-12-1978

Acts Referred:

Uttar Pradesh Protection of Trees in Rural and Hill Areas Act, 1976 — Section 5

Citation : (1979) AWC 10

Hon'ble Judges : R.R. Rastogi, J;N.D. Ojha, J

Bench : Division Bench

Final Decision : Allowed

Judgement

N.D. Ojha and R.R. Rastogi, JJ.—The Petitioner made an application u/s 5 of the U.P. Protection of Trees in Rural and Hill Areas Act (Act No. 45 of 1976) for permission to cut and remove, trees from certain plots. That application was given to the Block Development Officer who even according to the Standing Counsel was the competent authority for purposes of Section 5 of the Act. A copy of that application has been attached as Annexure "1" to the writ petition. A supplementary affidavit was filed by the Petitioner on 4th September, 1978. This application was allowed by the Assistant Block Development Officer on 23rd August, 1978. The Standing Counsel has taken the stand that it is only the Block Development Officer who was the competent authority for this purpose who could have granted the permission prayed for and not the Assistant Block Development Officer. Since this is the short controversy in the writ petition, we are of opinion that it is fit case which may finally be disposed off at this very stage as contemplated by the second proviso to Rule 2(1) of Chapter XXII of the Rules of the Court. We proceed to decide the writ petition accordingly.

2. As seen above the short question to be decided in the writ petition is whether the Assistant Block Development Officer was competent to grant the permission or not. It has not been disputed by counsel for the Petitioner that it is the Block Development Officer who is competent for purposes of Section 5 of the Act. He

has, however, not been able to show any provision which may entitle the Assistant Block Development Officer to dispose off that application. In this view of the matter, it is apparent that the order dated 23rd August, 1978 is without jurisdiction. Even so the Petitioner cannot be blamed for the error committed by the Block Development Officer, to whom the application was made, in directing the said application to be disposed off by the Assistant Block Development Officer and for this reason it is a fit case in which, after quashing the order dated 23rd August, 1978 which is without jurisdiction the Block Development Officer may be directed to dispose off the Petitioner's application dated 7th August, 1978 himself without any further delay.

3. In the result the writ petition succeeds and is allowed. The order of the Assistant Block Development Officer dt. 23rd August, 1978 is quashed and the Block Development Officer is directed to; decide the application dated 7th August, 1978 made to him by the Petitioner within two weeks of the service of certified copy on him of this order by the Petitioner, in accordance with law. In the circumstances of the case there will be no order as to costs. A copy of this order may be supplied to counsel for the Petitioner today on payment of usual charges.