(1997) 05 AHC CK 0080

In the Allahabad High Court

Case No : C.M.W.P. No. 17736 of 1997

Samvidhan Bahali Andolan and Another APPELLANT

Vs

Union of India (UOI) and Others RESPONDENT

Date of Decision : 22-05-1997

Acts Referred:

Constitution of India, 1950 — Article 254, 372
Uttar Pradesh Land Revenue Act, 1901 — Section 11

Citation : AIR 1998 All 210 : (1997) RD 535

Hon'ble Judges : Palok Basu, J;I.M. Quddusi, J

Bench : Division Bench

Advocate : A.P.N. Giri and Gyanendra Mrityunjaya, for the Appellant;

Final Decision : Dismissed

Judgement

1. Petitioners in this writ petition are two 1. Samvindhan Bahali Andolan through its ''Advisor'' Smt. Saroj Giri and 2. District Bar Association, Allahabad through its ''Secretary'' Sri Raghave Singh. The relief sought is that :--

a. Section 11 of the U. P. Land Revenue Act, 1901 be declared void as ultra vires in the wake of Articles 254 and 372 of the Constitution of India;

b. to quash the impugned declaration of creating six new districts namely, Kaushambi, Maha Maya Nagar, Chhatrapati, Sahuji Maharaj Nagar, Mahatma Budha Nagar and Jyotiba Phule Nagar and Chandoli; and

c. commanding opposite parties Nos. 2, 3 and 4 not to proceed further in creating new districts including those declared earlier.

2. Shri Gyanendra Mrityunjaya, learned counsel for the petitioners has been heard at substantial length. He has taken the Court through the writ petition, various provisions about which reference shall be made hereinafter and also to the provisions of some of the parallel enactment. Shri Yatindra Singh, Addl. Advocate General has put in appearance in opposition on behalf of respondents

Nos. 2 to 4.

3. The main argument of the learned counsel for the petitioners is that Section 11 of the U. P. Land Revenue Act, 1901 cannot be protected any longer because of certain provisions contained in the Articles of the Constitution of India. In this connection reliance was placed on the provision of Article 243(a) added through Chapter IX which itself came to be added by the (Seventy-Third Amendment) Act, 1992. The definition is as under :--

"243. Definitions-- In this part, unless the context otherwise requires,--

a. "district" means a district in a State;"

b. to g.....

4. Apart from the reliance on the aforesaid definition, it was pointed out that under the CPC and Criminal Procedure Code the definitions of District exist which may not permit the State to divide or diminish the area of any existing district.

5. Besides the aforesaid provisions Shri Mrityunjaya, learned counsel for the petitioners drew the attention of the Court to the language of Articles 254 372 and 375 of the Constitution of India.

6. It may be pointed out that in the State of U.P. the administrative set up concerning the "law relating to the land revenue and the jurisdiction to revenue officer in the U. P.", the U. P. Land Revenue Act, 1901 came to be enacted. By the said enactment earlier laws such as the Agra Province Land Revenue Act of 1873. The Oudh Land Revenue Act of 1876. The Agra Province Land Revenue Act, 1879. The United Provinces Kanungos and Patwaris Act, 1889 and the North-Western Provinces and Oudh Act, 1890 were repealed.

Section 11 of the aforesaid U. P. Land Revenue Act, 1901 provides as under :--

"Power to create, alter and abolish divisions, districts, tahsil and sub-divisions--

1. The State Government may create new or abolish existing divisions or districts.

2. The State Government may alter the limits of any division, district, or tahsil, and may create new or abolish existing tahsil, and may divide any district into sub-divisions, and may alter the limits of sub-divisions.

3. Subject to the orders of the State Government under Sub-section (2), all tahsils shall be deemed to be sub-division of districts."

7. It may be pointed out that the State Government is empowered to appoint the Commissioner of certain divisions and by virtue of the provisions of Section 12 of the Act appoint Collector of the District. The Commissioner and the Collector are empowered to exercise all powers and discharge all the duties conferred by the U. P. Land Revenue Act and all other Acts which they are empowered to exercise under those other enactment.

8. In view of the clear provision existing it is not known on what basis the creation of district can be stopped. The argument that the word ''district'' has been defined in Article 243 and in this connection reference to the said Article and other Articles such as 254, 372 and 375 appear to be wholly misconceived. The territory of a State is already fixed under the constitutional provision. Internal arrangement of the State is obviously a matter which is to be decided by the State Government. Creation of the revenue district, therefore, lies within the exclusive power of the State Government. All other arguments advanced in this regard are, therefore, rejected.

9. It may be mentioned here that Shri Mrityunjaya emphasised that neither there was any need nor any justification for creating this new district within about two or three months of assuming the office of Chief Ministership by opposite party No. 3. He wanted to argue that there may not be any proposal for creation of the new district, there may not be any budget for new district and there may not be any method by which immediate law and order can be looked after in the newly created district.

10. It may be pointed out that all the three arguments are without any basis whatsoever. They have been mentioned only to be rejected. It may be noted that action of the Government creating district is obviously based on the satisfaction of the State Government. The Chief Minister has to advise the Governor who passes the necessary orders on behalf of the State Government Section 11 of the U. P. Land Revenue Act, therefore, permits such executive action. Political motive or imputation which was sought to be argued can and should not be entertained concerning creation of a district on the basis of the administrative exigency. No other ground was argued.

The writ petition fails and is dismissed summarily.

