

(1996) 05 AHC CK 0095

In the Allahabad High Court

Case No : Civil Miscellaneous W.P. No. 15107 of 1996

Shanti Swarup Saxena

APPELLANT

Vs

State of U.P.& Ors.

RESPONDENT

Date of Decision : 01-05-1996

Acts Referred:

Constitution of India, 1950 — Article 226, 48A, 51A(g)

Uttar Pradesh Establishment and Regulation of Saw Mills Rules, 1978 — Rule 11, 3

Citation : (1996) 05 AHC CK 0095

Hon'ble Judges : M.Katju, J and B.S.Chauhan, J

Final Decision : Dismissed

Judgement

1. By means of this petition the petitioner has prayed for quashing Rules 3 and 11 of the Uttar Pradesh Establishment and Regulations of Saw Mills Rules, 1978. A copy of the said rules has been annexed as Annexure2 to the writ petition. It appears that the petitioner's Saw Mill has been seized and sealed by the respondent No. 4 vide order dated 311 96 and recovery memo annexure Nos. I and II to the writ petition.

2. We are of the opinion that the said Rules are not ultra vires. The said Rules (copy of which is Annexure3), require a licence for running a saw Mill in a reserved or protected forest or within a radius of 80" from the same from the Divisional Forest Officer. In our opinion these provisions are not ultra vires, because the purpose of making these rules appears to have been to protect the forests. It is well known that there has been a lot of illegal and indiscriminate felling of forests in our country, as a result of which the environment, including wildlife rainfall and lakes have been adversely affected. Unscrupulous forest contractors and other persons have ruined the environment by felling forests on a large scale. Article 48A of the Constitution of India states that the State shall endeavour to protect and to safeguard the forest and wildlife of the country, and Article 51A (g) states that it is the moral duty of every citizen of India to protect and improve the natural environment including rainfall, lakes and wildlife. Thus the above rules have been made pursuant to the above objectives of the

Constitution and cannot be held ultra vires. The learned counsel for the petitioner has referred to certain interim orders passed by this Court as stated in para 37 to 42 of the writ petition. It is settled law that an interim order is not a precedent. Since we are of the opinion that the impugned rules are not ultra vires. We dismiss this petition accordingly. It is open to the petitioner to apply for a licence for Saw Mill. In case he makes an application, the same shall be decided within two months from the date of the application alongwith certified copy of this order after hearing the Divisional Forest Officer and others who may be concerned.