

(1924) 11 AHC CK 0039
In the Allahabad High Court

Sheobodh Ram Teli

APPELLANT

Vs

Shiva Prasad and Others

RESPONDENT

Date of Decision : 28-11-1924

Acts Referred:

Citation : AIR 1925 All 293

Hon'ble Judges : Mears, C.J

Bench : Division Bench

Judgement

Mears, C.J.—To-day's list contains under miscellaneous matters cases numbered 408|1, 408|3 and 408|4 of 1924. On the papers being presented to us, they proved to be references submitted by the Political Agent of the Benares State for the opinion of the High Court. They have been put into the list by virtue of certain correspondence which appears to have begun on the 20th of June, 1922, whereby the High Court were asked whether they would agree to applications which had been submitted to His Highness the Maharaja in civil was from the Benares State Court being laid before a Judge of the High Court. The matter was put to the High Court as a reasonable thing to do and as a matter which would be of advantage to the subjects of the Maharaja of Benares and generally of benefit to the people also in this province; it might tend to keep the law uniform, A reply was sent in which it was pointed out that the High Court could have no jurisdiction to determine any points in the Benares State unless there was a change in the Letters Patent, or unless the Governor-General in-Council passed a legislative enactment conferring jurisdiction u/s 35 of the Letters Patent, and the letter concluded by saying that, if the Governor-in-Council (which was of course a reference to the Governor of the United Provinces) desires that the High Court should proffer an opinion in such matters, the High Court were ready to express their willingness to do so. That, indeed, is all that the referenda asks us to do; merely to give an opinion as to whether the decision that has already been made in the matter in the Benares State is a decision which meets with our approval. Mr. Iqbal Ahmad has taken just the point which the Judges took in their letter, that we have no power to give decisions in these matters, and, indeed, he has

gone further and has taken the point that the time of this Court ought not to be occupied by any other matter except a matter put into our hands by the force of a Statute, that is, by the Letters Patent by the order of the Governor-General-in-Council or by such Statutes as give us authority in regard to districts such as Kurnaun and Ajmor. We think he is right in this matter, and that, therefore, we cannot to-day entertain the applications, but we desire to show a courtesy to the Maharaja of Benares, and we feel that we cannot merely return these documents with a bare announcement that we have no jurisdiction in the matter, and, therefore, Mr. Justice Piggott and myself will sit to-morrow, in my chambers, to give opinions on these matters, and any body who has any interest in any of the cases may attend at half past ten. We will take the cases in the order in which they are in the printed list, and if nobody appears on either side, we shall discuss the matters between ourselves and arrive at what we believe to be the proper opinion to be sent informally to His Highness the Maharaja. The cases will be removed from the list of the Court. The other two references received along with these which are not on to-day's list will similarly be laid before us tomorrow morning.