
(2003) 03 AHC CK 0100

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 13009 of 2003

Shiv Pujan Nisliad

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 26-03-2003

Acts Referred:

Uttar Pradesh Kshetra Panchayat and Zila Panchayat Adhiniyam, 1961 — Section 256

Citation : (2003) 03 AHC CK 0100

Hon'ble Judges : M.Katju, J and Prakash Krishna, J

Final Decision : Disposed Of

Judgement

M. Katju, J.

1. Heard Sri R.K. Ojha learned Counsel for the petitioner, Sri S.C. Dwivedi learned Counsel for respondent No. 3, Sri Virendra Singh, learned Counsel for Respondent No. 6 and the learned Standing Counsel for respondent Nos. 1, 2, 4 and 5.

2. The controversy in this case relates to the fishery rights in river Jamuna. There is a controversy whether the Zila Panchayat, Kaushambi or the Zila Panchayat, Chitrakoot can grant such right. Under Section 256 of the U.P. Kshetra Panchayat and Zila Panchayat Adhiniyam this controversy can be decided only by the State Government in view of the Division Bench decision of this Court reported in (1996) 2 UPLBEC 1091.

3. Learned Counsel for Respondent No. 6 has invited our attention to a Division Bench decision of this Court in Writ Petition No. 15746 of 2002 decided on 19.4.2002. In that decision the Division has held that representation may be made by the petitioner to the District Magistrate, Chitrakoot who will decide the matter within three weeks and accordingly the District Magistrate, Chitrakoot has decided the matter.

4. In our opinion, the attention of the aforesaid Division Bench was not invited to the provisions of Section 256 of the U.P. Kshetra Panchayat and Zila Panchayat

Adhiniyam nor to the Division Bench decision of this Court in (1996) 2 UPBLEC 1091. Hence the aforesaid Division Bench decision is judgment in per incurring.

5. We accordingly dispose of this writ petition with liberty to the petitioner to approach the State Government under Section 256 within 10 days from today with a suitable representation, annexing thereto a certified copy of this order, and the State Government shall decide the controversy within six weeks from the date of receipt of the representation in accordance with law by a speaking order after affording parties concerned an opportunity of hearing.

6. In our opinion, the State Government under Section 256 of the Adhiniyam is also empowered to pass interim order pending final decision of the representation. Hence, the petitioner may apply for interim order before the State Government and if he does so the same will be decided in accordance with law very expeditiously.