

(2003) 04 AHC CK 0056
In the Allahabad High Court
Case No : C.M.W.P. No. 16503 of 2001

Shivala Footpath Sangathan Sansthan and Others	APPELLANT
Vs	
District Magistrate and Others	RESPONDENT

Date of Decision : 16-04-2003

Acts Referred:

Citation : (2003) 5 AWC 4401

Hon'ble Judges : R.S. Tripathi, J; M. Katju, J

Bench : Division Bench

Advocate : S.C. Tripathi, for the Appellant; M.M.D. Agarwal, R.V. Singh, S.K. Om and S.C., for the Respondent

Final Decision : Dismissed

Judgement

M. Katju and R.S. Tripathi, JJ.—Heard learned Counsel for the Petitioner and Sri M. M. D. Agarwal, Sri R.V. Singh and S.K. Om for the Respondents.

2. The Petitioners set up shops on the public pattri (footpath). They have alleged that allotments were made in their favour for use of the footpath by the Nagar Nigam, Kanpur and they are paying tehbazari.

3. In our opinion, the Nagar Nigam has no right to allot the footpath, and Petitioners have no right to occupy the same. The footpath is for public use by pedestrians and others. In fact, the Petitioners' own case, Shivala Footpath Sangathan Sansthan v. Kanpur Mahapalika 1987 UPLBEC 413 , which is an identical case, was dismissed by a Division Bench of this Court. The Supreme Court , in State of Uttar Pradesh Vs. Ata Mohd., , has also taken the same view.

4. In our opinion, footpath and public pattri cannot be given by the Nagar Nigam to anyone to set up shops or for private business. The free-flow of the traffic will be obstructed and hampered thereby, which cannot be permitted.

5. The writ petition is dismissed accordingly.