
(1948) 04 AHC CK 0007
In the Allahabad High Court

Shoran Singh and Others

APPELLANT

Vs

Emperor

RESPONDENT

Date of Decision : 07-04-1948

Acts Referred:

United Provinces Prevention of Adulteration Act, 1912 — Section 4(1)

Citation : AIR 1948 All 402 : (1948) 18 AWR 146

Hon'ble Judges : Mootham, J

Bench : Division Bench

Judgement

Mootham, J.—The applicants in these eight applications in revision have been prosecuted for offences alleged to have been committed by them u/s 4(1), U.P. Prevention of Adulteration" Act, 1912, within the limits of Anupshahr Notified Area. The prosecution in each case was instituted upon the order of the District Magistrate, and the question which arises is whether the District Magistrate or the Notified Area Committee was the proper authority to sanction such prosecutions.

2. Section 12, Prevention of Adulteration Act, provides that:

No prosecution under this Act shall be instituted without the order or consent in writing of the local authority, or in the case of a municipal board or cantonment authority, of the person or persons authorised in this behalf by the said municipal board or cantonment authority

and "local authority" is defined in Section 2 of the Act as meaning

...in the case of a municipality the Municipal Board, in the case of a cantonment, the Cantonment Authority, and in the case of any other local area, the District or Sub-Divisional Magistrate.

3. It is, therefore, clear that u/s 12 of this Act, read alone, the sanctioning authority in respect of an offence committed within the limits of a notified area is the District or Sub-Divisional Magistrate.

4. It has, however, been urged on behalf of the applicants that this section must be read together with Sub-section (4) of Section 338, U.P. Municipalities Act, 1916. Section 338 of that Act forms part of chap. 12 which makes provision for the establishment and administration of notified areas. Section 337 gives the local Government power by notification to declare a local area (other than a municipality town area or agricultural village) to be a notified area, and Clause (c) of Sub-section (1) of Section empowers the local Government to appoint a committee for the purpose of administering such area. Then Sub-section (4) of Section 338 provides that:

(4) For the purposes of any enactment which may be extended to a notified area the committee appointed for such area under Clause (c) of Sub-section (1) shall be deemed to be a board under this Act and the area to be a municipality.

5. It is clear in this case in dispute that the Prevention of Adulteration Act is an enactment which has been extended to the Anupshahr Notified Area within the meaning of this Sub-section. Section 12, Prevention of Adulteration Act, and Sub-section (4) of Section 338 of the Municipalities Act, must therefore, be read together, and when this is done the result, in my opinion, is that, for the purposes of the Prevention of Adulteration Act, the Anupshahr Notified Area Committee is deemed to be a municipal board and the Notified Area a municipality. Mr. Man Singh for the Crown has laid great stress on the definition in Section 2, of the Adulteration Act, of the expression "local area" which is therein defined so as to include a notified area; but in my opinion this does not assist his argument, for whether "local area" be so defined or not that expression when used in the definition of "local authority" will necessarily include a notified area.

6. In my opinion, the contention of the applicants is right, and in the case of a notified area to which the provisions of the Prevention of adulteration Act have been extended the local authority which, can, u/s 12 of that Act, sanction a prosecution means the notified area committee or the person or persons authorised in that behalf by that committee. The applications are, therefore, allowed and the proceedings before the Magistrate out of which these applications arise are quashed.