(1996) 01 AHC CK 0122

In the Allahabad High Court

Case No : C.M.W.P. No. 776 of 1994

Smt. Reshma Devi and Others — APPELLANT

Vs

Zila Parishad/Zila Panchayat and Others — RESPONDENT

Date of Decision : 04-01-1996

Acts Referred:

Uttar Pradesh District Boards Act, 1922 — Section 120

Citation : (1996) 01 AHC CK 0122

Hon'ble Judges : Om Prakash, J;M. Katju, J

Bench : Division Bench

Advocate : A.D. Saunders, for the Appellant;

Final Decision : Dismissed

Judgement

Om Prakash and M. Katju, JJ.—This writ petition has been filed for a writ of mandamus directing Respondents No. 1 and 2 not to realise circumstance and property tax from the Petitioners. We have heard Sri A.D. Saunders, learned Counsel for the Petitioners and Sri N.S. Chaudhry, counsel for Respondent No. 1.

2. The Petitioners hold permanent stage carriage permits on the Panethi-Sakra-via-Alampur-Atrauli route. The Petitioners are challenging the imposition of circumstances and property tax under the U.P. District Boards Act, 1922 which was subsequently repealed by the U.P. Kshetriya Samities and Zila Parishads Adhiniyam, 1961.

3. The first submission of the learned Counsel for the Petitioners is that there was no notification u/s 120 of the U.P. District Boards Act, 1922. In reply, it has been stated in Para 4 of the counter-affidavit that a notification was issued on August 3, 1927 proposing to impose circumstance and property tax and inviting objections from the public. After dealing with the objections, the tax was imposed by notification dated October 11, 1927 which was published in the Gazette. Thus it is clear that there was notification u/s 120 and the submission of the learned Counsel for the Petitioner is not correct.

4. Learned Counsel for the Petitioners then submitted that the Petitioners did not do any business in the rural areas inasmuch as they pick up and put down the passengers in the municipal areas. We are not agreeable to this submission also because admittedly the route on which the Petitioners'' buses ply pass through rural areas also. The case of a transporter who transports passengers cannot be equated with that of a shop keeper who has only one place fixed for doing business. In the case of the transporter, the business is done throughout the route and since admittedly part of the route lies in rural areas, it cannot be said that the Petitioners do not do any business in the rural areas. Even passing through a route falling in rural areas is doing a business there so far as a transporter is concerned.

5. Thus there is no force in this petition and the same is dismissed accordingly. Interim order, if any, stands discharged.

