
(1995) 09 MP CK 0059
In the Madhya Pradesh High Court
Case No : M.P. No. 3885 of 1989

Sushil Kumar Jain and Another	Vs	APPELLANT
Municipal Corporation		RESPONDENT

Date of Decision : 04-09-1995

Acts Referred:

Madhya Pradesh Municipal Corporation Act, 1956 — Section 248, 249

Citation : (1996) 1 MPJR 169 : (1996) 41 MPLJ 623 : (1996) MPLJ 623

Hon'ble Judges : U.L. Bhatt, C.J.; S.K. Dubey, J

Bench : Division Bench

Advocate : None, for the Appellant; S.N. Khare, for the Respondent

Final Decision : Dismissed

Judgement

U.L. Bhat, C.J.

First petitioner is the President of Association of Hosiery and Readymade Garment Dealers. Second petitioner is such a dealer. They seek relief of removal of "hosiery" from the list of dangerous and offensive goods incorporated in the Dangerous and Offensive Trades and Factories Byelaws 1980 framed by the Jabalpur Municipal Corporation.

Section 248 of the M. P. Municipal Corporation Act, 1956 deals with regulation of dangerous and offensive trades. No person shall store or keep in any premises any articles mentioned in any Byelaws made under the Act as dangerous or offensive, or as being, or likely to be a nuisance to the public or dangerous to life, health or property, or carry on or allow to be carried on any premises, any trade, manufacture, industry or operation mentioned in any byelaws as dangerous to life, health or property or as likely to create of nuisance except in accordance with the provisions of the Act. Section 249 of the Act requires that no person shall use or permit to be used any premises for any of the enlisted purposes without or otherwise than in conformity with the terms of the licence granted by the Commissioner. The provisions relate to trades and operation

which are dangerous to life, health or property or likely to create nuisance.

There is no dispute that byelaws have been framed by the Municipal Corporation under the statutory powers referred to earlier and have been finally published in the State Government Gazette on 6-2-1980. Byelaws are seen to have been published at page 141 of the printed book of byelaws relating to Municipal Corporation and the Item No. 13(2) of the List appended to the byelaws takes in "hosiery" and the licence fee is prescribed as rupees fifty. The list consists of articles which are regarded as dangerous or offensive. Storage or dealing with such articles can only be on the strength of a licence granted by the authority prescribed therein.

The sum and substance of the petitioner's contention is that hosiery is neither dangerous nor offensive and, therefore, inclusion of hosiery in the Schedule is illegal. It is further contended that licence fee could not be levied since there is no quid pro quo for the fee.

Hosiery is a name for knitted garment. It can certainly catch fire and thereby cause danger to life, health and property. We are therefore unable to agree that hosiery cannot be regarded as dangerous article or substance. Under the byelaws, licence is required to stock or deal in hosiery. The byelaws also prescribe the quantum of licence fees. Stand taken by the petitioners that licence fee is fee for services rendered is erroneous. It is fee for the licence so charged to defray the cost of administering byelaws or even to increase the general funds of the Municipal Corporation or for both purposes. In such a contingency the question of quid pro quo does not arise (See *Ishwar Brothers, Indore v. Administrator of the City Indore Municipal Corporation*, Indore 1975 MPLJ 722.)

We find no merit in the writ petition and accordingly dismiss the same but without costs.