Bahram Ji Vs. State of U.P. and Another

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Court : Allahabad

Decided On : Mar-18-1999

Reported in : 1999(2)AWC1434; (1999)2UPLBEC956

Judge : Ravi S. Dhavan and ;V.P. Goel, JJ.

Appeal No. : C.M.W.P. No. 1450 of 1989

Appellant : Bahram Ji

Respondent : State of U.P. and Another

Advocate for Def. : B.N. Misra, Adv. and ;Addl. C.S.C.

Advocate for Pet/Ap. : S.K. Verma, Adv.

Judgement :

Ravi S. Dhavan, J.

1. On facts, there is no issue in this writ petition-The facts are that at the time when the writ petition was brought to the High Court in 1989, there was a Town Area, Basra. In 1989 the Town Area, Basra did not have a committee, known as the Town Area Committee. This body had been superseded. An administrator sat on this body to carry on the functions which otherwise would have been the functions of the elected representatives.

2. Regarding the entertainment which was being carried on within the Town Area in cinema, a show tax was proposed and imposed. The petitioner raises the issue that the Town Area had been superseded by the State Government and was shorn of its elected representatives and it was being administered by an administrator. Thus, the petitioner contends that the administrator did not have the sanction of law to impose fresh taxes or revise taxes.

3. Heard learned counsel for the petitioner. Mr. Siddhartha Verma, and the Additional Chief Standing Counsel, Mr. B. N. Misra.

4. The Court has perused the counter affidavit in answer to the writ petition. There is no issue that at the relevant time, the Town Area hadbeen superseded and the functions of the elected representatives was being carried on by an administrator.

5. Regard being had to over all circumstances, this Court is very clear in its view that supersession of local self-government cannot be a permanent feature of democracy and the necessary corollary of this is that if the State were to supersede local self-government, then whoever may be the administrator who sits to act as the local body, he would have to carry on the administration with whatever taxes the elected representatives left for him. Thus, the administrator would not have any sanction to impose fresh taxes or revise existing taxes. Superseding local self-government is an exception not a rule by democracy. The sooner these administrators of superseded local bodies leave their seats, the better it would be. Today, the Constitution of India does not permit the supersession of any elected body which represents local self-government to go beyond the duration of six months.

6. The imposition of fresh tax by the superseded Town Area, Basra, at the hands of the administrator is quashed. But, it is made clear that if the elected representatives or the Legislature in the field in which could have revised this tax or increased taxes from whichever date it might be, then the petitioner would be obliged to pay such tax.

7. The petition succeeds with costs.