

Town Area Committee and Others Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Mar-16-2000

Reported in : 2000(2)AWC1728; (2000)2UPLBEC1262

Judge : D.S. Sinha and ;Ratnakar Dash, JJ.

Acts : [Constitution of India](#) - Article 226; Uttar Pradesh Town Area Act, 1914 - Sections 3 and 3(1); Uttar Pradesh Municipalities Act, 1916 - Sections 337; United Provinces Town Area Act, 1914 - Sections 3

Appeal No. : C.M.W.P. No. 882 of 1993

Appellant : Town Area Committee and Others

Respondent : State of U.P. and Others

Advocate for Def. : Vinay Malviya, Adv. and ;S.C.

Advocate for Pet/Ap. : R.H. Zaidi, ;Pradeep Kumar Srivastava and ;Mazhar Abbas Zaidi, Advs.

Judgement :

D. S. Sinha, J.

1. Heard Sri Pradeep Kumar Srivastava, holding brief of Sri Mazhar Abbas Zaidi, the learned counsel appearing for the petitioners, and Sri Vinay Malviya, the

learned standing counsel of the State of U. P.. representing the respondents.

2. In the year 1989, exercising power under Section 3 of the United Provinces Town Area Act, 1914, (hereinafter called the 'Act'), the State of Uttar Pradesh, the respondent No. 1, constituted Haraiya Town Area in the district of Basti comprising villages Muradipur, Dhanha Khas, Pandit Purwa, Rajghat, Atwa and Haraiya Ghat vide notification dated 1st September, 1989, a copy of which is Annexure-1 to the petition.

3. In the year 1992, the respondent No. 1 Issued another notification dated 11th August, 1992, a copy whereof is Annexure-II to the petition. By this notification the respondents purported to cancel the notification dated 1 st September, 1989, constituting Town Area Haraiya. The petitioners seek to A.W.C. 109challenge this notification in this writ petition under Article 226 of the [Constitution of India](#).

4. It is to be noticed that neither the Town Area Committee nor the inhabitants of the Town Area, who could, possibly, have some grievance. have come forward to challenge the notification. Instead, the petitioner Nos. 2, 3 and 4, who are the servants of the Town Area and the petitioner Nos. 5, 6 and 7, who are the contractors of the Town Area, and the Secretary of the Town Area, claiming to represent the Town Area, have filed this petition to question the act of the respondent No. 1 cancelling the notification whereby the Town Area was established. Under the circumstances, in the opinion of the Court, the petitioners have no locus standi to maintain the petition Inasmuch as they do not have any right, either statutory or otherwise, either to have the Town Area established or abolished. This factor alone is sufficient to dismiss the petition.

5. Otherwise also, clause (d) of sub-section (1) of Section 3 of the Act empowers the State Government to cancel at any time any notification Issued for constituting a Town Area.

6. The learned counsel of the petitioners draws the attention of the Court to the fact that in the preamble of the Impugned notification. Section 337 of the U. P. Municipalities Act. 1916 is mentioned as the source of power in exercise whereof the notification has been issued, and contends that the provisions of Section 337,

aforesaid, are not attracted. According to him, this Infirmary renders the notification invalid and liable to be quashed.

7. Neither It is nor can it be disputed that the respondent No. 1 had the power to cancel the notification establishing the Town Area Haraiya under Section 3 of the Act. It is well settled that mention of wrong provision of statute will not invalidate the exercise of a statutory power, if the power exists and is traceable in any other provision of the statute. The existence and source of the power qua impugned notification is clearly traceable in the provisions of Section 3 of the Act. Thus, the wrong mention of the provision of Section 337 of the U. P. Municipalities Act, 1916 will not invalidate the impugned notification. All told, in the opinion of the Court, the petition is devoid of substance and deserves to be dismissed.

8. In the result, petition fails and is dismissed. However, there is no order as to costs.