

SUPREME COURT OF INDIA

Ram

Vs.

Notified Area Committee, Khatauli

Petition No. 535 of 1951

(M. Patanjali Sastri, C.J.I., Mehr Chand Mahajan, B. K. Mukherjea, S. R. Das, N. Chandrasekhara Aiyar, JJ.)

27.02.1952

JUDGEMENT

DAS, J. :-

1. The facts on which this petition is founded are similar to those in petition No. 132 of 1951 *Mohammad Yasin v. Town Area Committee, Jalalabad*, (A. I. R. 1952 S. C. 115) except that the respondent Committee in this petition which was a Town Area Committee governed by the U. P. Town Areas Act (II [2] of 1914), was converted into a Notified Area Committee with effect from 1-7-1949. The principal questions raised in this petition are covered by our decision in the other petition I have mentioned and it is not necessary to reiterate the same. It is, therefore, necessary only to consider one additional point urged on this petition.

2. After the respondent Committee became a Notified Area Committee, the Commissioner, Meerut Division, by a notification extended to the respondent Committee the provisions of Ss 333 and 333A, U. P. Municipalities Act, 1916 (II [2] of 1916). Under the last mentioned section all taxes, fees, licenses, fines or penalties; imposed, prescribed or levied by the Town Area, Committee are to be deemed to have been imposed prescribed or levied by the Board under or in accordance with the provisions of the U. P. Municipalities Act, 1916, Learned counsel appearing for the respondents accordingly has sought to support the bye-law imposing a fee of one anna to be shared equally by the purchaser and the seller as a fee charged under S. 294, U. P. Municipalities Act. That section authorises the Board to charge a fee to be fixed by bye law for any license, sanction or permission which it is entitled or required to grant by or under this Act."

Some argument was addressed to us on the question whether that section contemplates a fixed lump sum fee or a fee calculated ad valorem on the quantity of goods purchased and sold. We do not consider it necessary to express an opinion on that question, for, we think, this case can be disposed of on the simple ground that a fee of one anna per rupee to be shared equally by the buyer and the seller cannot possibly be regarded as fee contemplated by S. 294. We have not been referred to any provision of the U. P. Municipalities Act, 1916 by or under which the Board is entitled or required to grant any license, sanction or permission to a person for buying fruit or vegetable within the limits of the notified area. In the premises, the revised bye-law 8 (c) cannot be supported under S. 294.

3. For reasons stated in our judgment in petition No. 132 of 1951 *Mohammad Yasin v. Town Area*

Committee Jalalabad, (A. I. R. 1952 S. C. 115), and for the reasons stated above, this application must also be allowed and there will be an order in the same form as in that petition. The respondents in this petition must pay the costs of the petitioner.

Application allowed.

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