

Latafat Ali Khan and Others

Vs

The State of U. P.

Writ Petition No. 261 of 1968

(CJI S. M. Sikri, B. Bhargava, G. K. Mitter, C. A. Vaidialingam, A. N. Ray JJ)

06.05.1971

JUDGMENT

SIKRI, C.J. -

1. This petition under Article 32 has been filed by the three appellants in Civil Appeals Nos. 2018-2020 of 1968, in which we have just delivered judgment. In this petition the vires of section 6, clause (xvii), of the U.P. Imposition of Ceiling on Land Holding Act, 1960 (U.P. Act I of 1961) - hereinafter referred to as the Act and Rule 4(4) of the U.P. Imposition of Ceilings and Land Holdings Rules, 1961, have been challenged. It is urged that these provisions violate Articles 14, 19 (1)(f) and (g) and 31(1) of the Constitution. The learned counsel for the State contended that the impugned provisions are protected by Article 31-B of the Constitution, as the Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960, is included in the Ninth Schedule as item 58. The learned counsel for the petitioners, in reply, urged (1) that the impugned provisions have nothing to do with land reform, and (2) that rules made under the Act do not enjoy the protection of Article 31-B. It is admitted that the land in dispute is a 'holding' within Section 3(d) of the Act. The definition reads :

"'Holding' means the land or lands held by person as bhumidhar, sirdar, asami of Gaon Samaj or an asami mentioned in Section 11 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, or as a tenant under the U.P. Tenancy Act, 1939, other than a subtenant, or as a Government lessee, or as a sub-lessee of a Government lessee, where the period of the sub-lease is co-extensive with the period of the lease."

2. It seems to us that if a statutory rule is within the powers conferred by a section of a statute protected by Article 31-B, it is difficult to say that the rule must further be scrutinised under Articles 14, 19, etc. Rule 4(4) seems to us to be a rule which does not go beyond the powers conferred under Section 6(xvii), read with Section 44 of the Act. At any rate, Section 6(xvii) and Rule 4(4) are part of a scheme of land reform in U.P. and would be protected from attack under Article 31-A of the Act.

3. In the result we hold that Section 6(xvii) and Rule 4 (4) are valid. The petition accordingly fails. In the circumstances there will be no order as to costs.

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