

U.P. KATTHA FACTORIES ASSOCIATION

A

v.

THE STATE OF U.P. AND ORS.

JANUARY 2, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

B

*Constitution of India, 1950 :*

*Art. 14—Encouraging small scale industries using 'Khair wood' purchased from outside the State in view of the shortage of forest produce—Subsequently introducing complete ban on registration of small scale industries—Held, not violative of as it was a policy decision—Hence no interference called for.*

C

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1546 of 1996.

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From the Judgment and Order dated 3.5.91 of the Allahabad High Court in W.P. No. 1828/91.

Arvind Kumar and Ms. Laxmi Arvind for the Appellant.

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S.K. Mehta, Dhruv Mehta, Aman Vachher, Ashok K. Srivastava for the Respondents.

The following Order of the Court was delivered :

Leave granted. Heard counsel on both sides.

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The facts are that pursuant to the policy dated September 12, 1983, industrial units based on various forest produce i.e. Khair Wood were allowed to be set up in the State. Appellant is an association of the industries. The Government gave relaxation on February 25, 1984 giving liberty to the Director of Industries to encourage small scale industries on the ground that those who would not operate their industries from the forest wood may be considered for the licence and that they would purchase 'Khair Wood' from outside the State. The respondent No. 4 had given provisional registration of his proposed S.I. units for a period of one year on February 11, 1986.

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A The Government thereafter introduced complete ban on registration from December 11, 1986. The appellant Association had applied for cancellation or relaxation of the ban imposed including the 4th respondent but the Director refused to accede to the same. Consequently, the appellant filed a writ petition in the High Court. The Division Bench of the High Court of Allahabad in the order dated May 3, 1991 in Writ Petition No. 1828/91 dismissed the writ petition holding that the matter being one of policy taken by the Government at the highest level, the Court was not inclined to examine the correctness of the policy. Accordingly it declined to pass any direction as sought for.

C It is contended for the appellant that the Government having allowed other units to obtain Khair Wood from the Government quota, denial of the same to S.S.I. units registered under provisional registration would be discriminatory violative of Art. 14 of the Constitution. Having given our anxious consideration to the contentions of the counsel and the argument of Shri Mehta learned counsel for the 4th respondent, we are of the view that it is not a fit case for our interference. It is seen, as stated in the counter filed in this Court, that the Government had constituted a committee to which the Secretary Forest was the Chair-person. It had met on December 13, 1990 and had decided that small scale units registered prior to December 11, 1986 were entitled to be considered for allotment and any unit registered thereafter would be allowed to operate only subject to their obtaining required wood from outside the State. It is seen that in view of non-availability of the forest produce in the State of U.P. the Government constituted a committee and the Secretary Forest Department was its Chair-person. They had gone into the question of availability and allotment of Khair wood in the State.

E They have imposed a cut off date, i.e., December 11, 1986 and allotment would be made, subject to the availability of forest produce, to those industries established prior to the aforesaid date. It is true, as stated in the order passed by the Director, that S.I. units registered after September 12, 1983, were allowed registration by proceedings dated February 25, 1984 with a condition that they will not apply for U.P. forest wood, and they would get it from outside the State. Even in respect of such industries it was also further stated that though the Director of Industries granted provisional registration, it would only be until or before December 11, 1986. In other words, complete ban on registration of S.I. units was imposed on or after December 11, 1986 allotment of the forest produce required for

H industries.

Under these circumstances, it being a policy decision we do not think that it would be a case for our interference. The High Court has rightly declined to exercise its powers. A

The appeal is accordingly dismissed. No Costs.

G.N.

Appeal dismissed.