

Musai Bhand And Ors. vs Ganga Charan And State U.P. on 7 December, 1951

Equivalent citations: AIR1953ALL118, AIR 1953 ALLAHABAD 118

JUDGMENT

Sapru, J.

1. This is an application under Article 226 of the Constitution praying that this Court may be pleased to issue a writ of certiorari or such other writ, direction, or order as it may please and quash the conviction and sentence passed against the applicants by a Panchayati Adalat. The applicants' allegation is that none of the five panchas who convicted him resided in the village of the accused or the area of the Gaon Sabha. This fact is not controverted by the opposite parties as they have not filed any counter-affidavit. We further find that this objection was taken, though not in very clear terms, before the learned Sub-Divisional Magistrate to whom the applicants went in revision. The learned Sub-Divisional Magistrate chose to pass an order which gave no reasons for rejecting the applicants' application. We think it was incumbent on him to pass a more well-considered order. For the successful working of the Panchayat Raj Act and for guiding the Panchayati Adalats it is, in our opinion, essential that Magistrates should take some pains over the judgments and orders that they pass in revisions against the orders of the Panchayati Adalats. We regret to note that this consideration was not borne in mind by the learned Sub-Divisional Magistrate who dealt with this case.

2. A reading of Section 49 of the U. P. Panchayat Raj Act, 1947, leaves no room for doubt in our mind that it was essential for the Panchayati Adalat which convicted the applicants to include one panch who resides in the area of the Gaon Sabha in which the complainant resided and one panch residing in the area of the Gaon Sabha in which the applicants were residing. It is quite clear that in this case none of the panchas resided in the village of the applicants or the area of their Gaon Sabha.

3. The Panchayati Adalat is a new institution. It is based on ancient concepts of justice modified by modern conditions. The provision that some of the panchas should be residents of the area in which the complainant and the applicants resided had been deliberately inserted in order to give a domestic colour to this court. There is no power under the U. P. Panchayat Raj Act which would enable us to cure irregularities affecting the jurisdiction of the Panchayati Adalats. We think, therefore, that the applicants have made out a case for interference by this Court.

4. We, therefore, direct that a writ shall issue quashing the proceedings of the Panchayati Adalat.