
(1962) 02 MAD CK 0026
In the Madras High Court

B. Bastimull Jain		APPELLANT
	Vs	
The Collector of Madras and Others		RESPONDENT

Date of Decision : 23-02-1962

Acts Referred:

Tamil Nadu Pawnbrokers Act, 1943 — Section 4

Citation : (1963) ILR (Mad) 1180 : (1962) 75 LW 471 : (1962) 2 MLJ 517

Hon'ble Judges : Srinivasan, J

Bench : Single Bench

Judgement

Srinivasan, J.—The petitioner was a pawn-broker. He had obtained a licence for carrying on business as pawn-broker under the Madras Pawn-Brokers' Act, (XXIII of 1943) from the Collector of Madras. The licence is being renewed year after year. He applied for the renewal of his licence for the year 1961-62. The Collector, in response to his application, called upon him to show cause why the renewal should not be refused. According to the notice so served upon him by the Collector, the petitioner had had two convictions for certain violations of the provisions of the Pawn-brokers' Act. The Collector called upon the petitioner to show cause why the petitioner should not be regarded as a person of bad character to whom a licence could be refused. The petitioner claims that the two convictions referred to by the Collector were for trivial offences and that he pleaded guilty only for the sake of avoiding an expensive defence. His first conviction was for an alleged offence of charging one anna for a pawn ticket, for which he was fined Rs. 3. The second was that he had not made certain entries in his books of account. It resulted in the imposition of a fine of Rs. 10. In both of these cases, the petitioner claimed that though he pleaded guilty to the charges, the offences were exceedingly technical in character and would not justify the refusal to renew the licence in his favour. Nevertheless, the Collector made an order refusing to grant renewal of the licence on the ground that the petitioner is a person of bad character.

2. Against the order of the Collector, the petitioner moved the Board of Revenue

in Revision. The Board however rejected the Revision Petition without giving any reasons for its order.

3. It is the contention of the petitioner that the refusal to renew the licence, based on the ground that the petitioner is a person of bad character, is rested on an erroneous conception of the relevant provision and that there is accordingly an error of law apparent on the face of the record justifying the quashing of the order of the Collector.

4. I am of the opinion that the petitioner is well-founded in his contention. Section 4 of the Act provides for the grant and refusal of licences. Sub-section (2) states that the licence shall not be refused except on one or both of the following grounds : (a) that the applicant is of bad character. (b)" The short question then is whether the applicant is a person of bad character solely by reason of the two convictions referred to. What is a person of bad character within the meaning of the provisions has been indicated in *Kewalchand Sowcar v. State of Madras* (1957) M.L.J. 176 : ILR (1957) Mad. 937 : (1957) 1 M.L.J. 329. In that case, the learned Judge had to consider the constitutional validity of several of the provisions of the Act. The validity of Section 4(2)(a) was questioned on the ground that what constitutes bad character has not been defined by the statute itself and in the absence of a statutory definition, the application of the test was rendered vague and amounted to an unreasonable requirement. The learned Judge however, did not agree with this contention and pointed out that the expression " bad character " had a well-understood connotation in so far as the maintenance of law and order is concerned. Since the officers, who were entrusted with the grant of the permit, were of the Revenue Department, and were expected to do work in unison, with the Police Officers, in maintaining the law and order, the expression " bad character" had to be interpreted in that context. The learned Judge took the view that despite the absence of a definition in the Act, there was nothing vague about the expression.

5. It is unnecessary for me to consider whether the expression " bad character " has the precise meaning which the learned Judge in the decision cited above gave to it. Of the two grounds upon which a refusal to grant a licence can be based, one. is that the appellant is of bad character. The other is

that the shop or place at which he intends to carry on the business of a pawn-broker, or any adjacent house, shop or place owned or occupied by him is frequented by thieves or persons of bad character.

The expression " bad character " has also been used in a specific context in Sub-clause (b) of Section 4(2), and its association with the expression " thieves " really indicates the type of bad character which the Legislature had in its mind when it framed this provision. It is obvious that these specific restrictions were placed for the purpose of ensuring among other things, that persons who could be suspected of dealing in stolen property should be denied the licence. It is impossible to construe the expression " bad character " as one who has been

convicted of certain technical violations of the Pawn-brokers" Act. If the intention of the Legislature was that any and every violation of a provision of the Act should entail the cancellation or refusal of renewal of the licence, the Legislature could very well have said so..

6. I am satisfied that the refusal to renew the licence is unsupported by any of the provisions of the Act, and the order of the Collector has necessarily to be quashed. The petition is allowed. There will be however no order as to costs.