
(2009) 09 OHC CK 0017

In the Orissa High Court

Bibhuti Kumar Sahoo and Others

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 03-09-2009

Acts Referred:

Citation : (2010) 109 CLT 201 : (2010) 1 OLR 724 Supp

Hon'ble Judges : I.M. Quddusi, Acting C.J.; Sanju Panda, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Sanju Panda, J.—In this writ application the Petitioners have challenged the Office Order No. 137 dated 6.11.2008 passed by the. Learned Additional District Magistrate granting licence in favour of Opposite Party No. 4 as Stamp Vendor under the Orissa Supply & Sale of Stamps & Stamped Papers Rules, 1990 (hereinafter referred to as "the Rules") to sell General Stamps at Raghunathpur Tahasil Office violating Rule-17, Sub-rule (1) & Rule-4 (C & E) of Chapter-III of the Rules.

2. The Petitioners are the existing Stamp Vendors who were received their licence since 2004 from the Additional District Magistrate, Jagatsinghpur to sell Stamps at the Tahasil Office, Raghunathpur & the said licence were for a period of five years which will end by 31st of December, 2009. They pleaded that the Raghunathpur Tahasil was newly created & due to inadequate number of works the Petitioners were unable to sell Stamps for their moderate income. They also stated that the total sale of Stamps during the period was very low. The maximum sale was Rs. 164.80 & minimum was Rs. 35.00. They further pleaded that Opposite Party No. 4 is a fraudulent person & F.I.R. was lodged for his fraudulent act but the police did not take any action. However, the Tahasildar, Raghunathpur ratified the said fraud of Opposite Party No. 4 & appointed him as a Stamp Vendor on production of the Character Certificate, Solvency Certificate & Resident/Nativity Certificate obtained from the Tahasildar, Jagatsinghpur though the Tahasildar, Jagatsinghpur was not authorized to grant those certificates

because the residence of Opposite Party No. 4, i.e., Dharadharpur, comes under the jurisdiction of the Tahasildar, Raghunathpur. As the Tahasildar, Raghunathpur did not agree to grant such certificates due to his fraudulent activities, Opposite Party No. 4 managed to obtain those certificates from the Tahasildar, Jagatsinghpur. The Solvency Certificate submitted by him was granted in favour of one Krushna Rout, the father of Opposite Party No. 4. The entire property of said Krushna Rout was not belonging to Opposite Party No. 4 as said Krushna Rout has his legal heirs.

3. The Petitioners filed several representations narrating the fraudulent activities of Opposite Party No. 4 & apprehending that if he would be granted licence as a Stamp Vendor, he would increase his fraudulent activities & create an unhealthy atmosphere in the newly created Tahasil Office at Raghunathpur, they also prayed for a Vigilance enquiry.

4. Opposite Party Nos. 2 & 3 filed their counter traversing the allegations made by the Petitioners & stating that the Petitioners were granted licence as Stamp Vendors for the Office of the Additional Tahasildar, Raghunathpur in the year 2004. As they were not sitting regularly for vending Stamps, the people coming to the Office of the Additional Tahasildar, Raghunathpur were facing immense difficulties to obtain different certificates & for different works of the Tahasil. Therefore, looking into the need of the local people, the Tahasildar, Raghunathpur recommended the application of Opposite Party No. 4 to the Additional District Magistrate, Jagatsinghpur-Opposite Party No. 2 to grant licence as Stamp Vendor in Raghunathpur Tahasil Office for vending Stamps. The Petitioners are economically sound people having other business & good income source. They only tried to mislead this Court about the character & conduct of Opposite Party No. 4 for their own interest. However, Opposite Party No. 4 obtained those certificates during the period when the Additional Tahasildar, Raghunathpur was under maternity leave. Those certificates were issued by the Tahasildar of Jagatsinghpur Tahasil which is the parent Tahasil of Raghunathpur in absence of the Additional Tahasildar, Raghunathpur. The father of Opposite Party No. 4 during his lifetime obtained the Solvency Certificate for the Stamp Vendor licence for his son. The valuation was given as per the bench mark valuation obtained from the Sub-Registrar Office, Raghunathpur. Those certificates were attested by the then A.B.D.O., Raghunathpur during the absence of the B.D.O. Therefore, Opposite Party No. 4 has not done any fraudulent act & there is no illegality or irregularity in granting licence in his favour. Hence, they prayed for dismissal of the writ application.

5. Opposite Party No. 4 also filed his counter denying the allegations made by the Petitioners. He stated that the present Petitioners do not come to the Tahasil office regularly & they have not any fixed place for vending within the campus of Tahasil Office or outside the Tahasil office. They have not put any Board displaying "Licensed Stamp Vendor" in any language known to the local people. An enquiry was made by the Tahasildar to this aspect & the report was sent to

the Collector. Thereafter, taking into consideration the difficulties of the local people in getting Stamps, the authorities granted licence to him. During absence of the Tahasildar, Raghunathpur, he obtained the requisite certificates from the Tahasildar, Jagatsinghpur & has not committed any fraud. Due to personal anger, the Petitioners have filed this writ application to harass him. Hence, he prayed for dismissal of the writ application as there is no illegality in granting the licence to him.

6. As per the direction of this Court vide its Order Dated 24.7.2009, the Learned Government Advocate submitted the details of Stamp Papers purchased from the Treasury or Sub-Treasury & also the approximate requirement of the Stamp Papers. The record reveals that Petitioner No. 1-Bibhuti Kumar Sahoo purchased Judicial Stamp papers worth Rs. 8100.00 & Non-Judicial Stamp Papers of Rs. 23,400.00 from the date of issuance of licence in the year 2004, Petitioner No. 2-Prafulla Kumar Sahoo purchased Judicial Stamp Papers of Rs. 700.00 & Non-Judicial Stamp papers of Rs. 4,000.00 & Petitioner No. 3-Sudarsan Sahoo purchased only Non-Judicial Stamp Papers of Rs. 7,050.00 & "Nil" Judicial Stamp Papers. The aforesaid figures show that the Petitioners are not regularly selling the Stamps. The stands taken by the Opposite Party Nos. 2 & 3 in their counter that the Petitioners were irregular at the Tahasil Office & they have no fixed place to sell the Stamp Papers are correct. The allegations made by the Petitioners are unfounded. Since the authorities taking into consideration the need of the local people granted licence in favour of Opposite Party No. 4 to sell Stamps at Raghunathpur Tahasil, this Court is not inclined to interfere with the same. Accordingly, there is no merit in this writ application & the same is dismissed. No costs.

I.M. Quddusi, A.C.J.

I agree.