
(2002) 12 P&H CK 0076

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No's. 4416 of 1994

Brij Bhushan Gupta, Stamp Vendor and Others

APPELLANT

Vs

The Commissioner, Jalandhar Division and Others

RESPONDENT

Date of Decision : 04-12-2002

Acts Referred:

Punjab Stamp Rules, 1934 — Rule 28, 29, 31

Citation : (2003) 3 RCR(Civil) 70

Hon'ble Judges : G.S. Singhvi, J

Bench : Single Bench

Advocate : Hiten Nehra and Sanjeev Kaushik, for the Appellant; Nirmaljit Kaur, Addl. A.G., for the Respondent

Final Decision : Allowed

Judgement

G.S. Singhvi, J.—The above noted petitions are being disposed of by one order because common issues of fact and questions of law arise for determination by the Court.

2. For the sake of convenience, the facts are being noticed from C.W.P. No.4416 of 1994.

3. Petitioner-Brij Bhushan Gupta was granted licence by the competent authority under the Punjab Stamp Rules, 1934 (for short, the 1934 Rules) for sale of stamps within the District Court Compound at Jalandhar. On receipt of complaint of irregularities in the sale of stamp papers etc., Deputy Commissioner, Jalandhar deputed Sh. S.K.Sandhu, Additional Deputy Commissioner, Jalandhar to make enquiry in the matter. Accordingly, Sh. Sandhu made enquiry and found certain irregularities in the functioning of licensed stamp vendors who were operating within the District Court Compound, Jalandhar. He then, exercising the power of Collector under the Court Fee Act and the Rules, issued notice. Annexure P-1 dated 20.10.1992 to the petitioner proposing to take action against him for the alleged violation of Rules 28(xv) and 28(xiii) of the 1934 Rules on the ground

that at the time of enquiry, some documents/papers were found with him which did not relate to his business as a stamp vendor. The details of documents found with the petitioner, as incorporated in Annexure P-I are as under;-

1. 6 Passports in respect of Sh. Vijay Kumar, Issar Singh, Jagmohan, Lal, Abinash Chander Tail and Smt. Neelam Kumari.

2. Certificates for transfer of Registration in respect of five vehicles.

3. Application forms regarding licences of Smt. Meena Kakreja & Ashok Kumar.

4. One non-judicial paper of Rs. 30 in the name of Harjinder Singh, vill. Rahimpur, S. No.2510 issued on 22.5.1992.

5. 3 Registration Certificate in respect of vehicles bearing Nos.PAX-5858, PAJ 5677, PE-08-8988.

6. One Office Copy in respect of Vehicle No. PB-02-5395 which should have been in the office of District Transport Officer, Jalandhar.

4. The petitioner filed detailed reply. Annexure P-2 dated 4.11.1992 in which he denied all the allegations. Thereafter, Additional Deputy Commissioner-cum-Collector, Jalandhar (respondent No.2) passed order dated 18.2.1993 for cancellation of the petitioner's licence. Appeal filed by him was dismissed by Commissioner, Jalandhar Division, Jalandhar (respondent no.1) vide order, Annexure P-5 dated 7.12.1993.

5. Similar actions were initiated against other petitioners who were also duly licensed under the 1934 Rules. They were also served with show cause notices and orders cancelling their licence were passed by respondent No.2. Appeals filed by them were also dismissed by respondent No. 1.

6. The petitioners have challenged the cancellation of their licences on the ground of violation of rules of natural justice and Rules 29 and 31 of the 1934 Rules. They have averred that the entire exercise undertaken by respondent No.2 to issue notices to them and consideration of their replies was farce because his superior officer i.e. Deputy Commissioner, Jalandhar had made public announcement about cancellation of licences even before the issuance of show cause notices. They have further averred that respondent No.2 did not consider the replies filed by them in response to the show cause notices in a correct perspective and with open mind and the Appellate Authority brushed aside the points raised in the appeals. They have also assailed the impugned orders on the ground that the same do not satisfy the test of a speaking order.

7. In their written statement, the respondents have justified the cancellation of licences of the petitioners by asserting that they were found guilty of selling stamps and also keeping of other documents which they were not supposed to keep, in breach of the provisions of the 1934 Rules. However, they have not denied the averment contained in the writ petition that the Deputy Commissioner had made a public announcement on 24.10.1992 regarding cancellation of the

licences.

8. I have heard learned counsel for the parties and carefully gone through the record.

9. In my opinion, the impugned orders are liable to be nullified on the ground of violation of rules of natural justice. A reading of press note dated 23.10.1992 (enclosed as Annexure P7 with CWP No.4416 of 1994) issued at the instance by the Deputy Commissioner, Jalandhar which was published in Panjab Kesri newspaper dated 24.10.1992 shows that the officer concerned had made an unequivocal announcement that the licences of four stamp vendors including the petitioners had been cancelled on account of the irregularities committed by them. The press note also made reference to complaint regarding irregularities in the sale of stamp papers and other matters which are said to have been confirmed in the enquiry conducted by Sh. S.K. Sandhu. It is, thus, clear that an officer superior to respondent No.2 had pre-determined the fate of the licences granted to the petitioners leaving no option with him i.e., respondent no.2 but to issue orders for cancellation of the licences which he did by passing the impugned orders albeit without assigning cogent reasons for not accepting the explanations/replies filed by the petitioners.

10. I am further of the view that orders cancelling the licences of the petitioners and the appellate orders passed by respondent No.1 are liable to be invalidated on the ground that the same do not conform to the requirement of a speaking order. In their replies, the petitioners had not only explained the documents, other than stamp papers, found with them, but had also pleaded that keeping of those documents did not amount to violation of Rule 28 of the 1934 Rules. However, without considering the points raised by them, respondent No.2 arbitrarily cancelled their licence ignoring the mandate of Rule 29 read with Rule 31.

11. Respondent No.1 dismissed their appeals without considering the points raised by the petitioners to question the legality, correctness and justification of the cancellation of their licences.

12. In view of the above conclusion, I do not consider it necessary to deal with other points raised by the petitioners.

13. In the result the writ petitions are allowed. Orders, Annexure P-3 and P-5 are quashed. As a consequence, the licences of the petitioners shall stand automatically revived.

14. However, it is made clear that this order will not preclude the competent authority from passing fresh orders in the matter after giving reasonable opportunity of hearing to the petitioners.