(1990) 03 BOM CK 0015

In the Bombay High Court

Case No : Writ Petition No. 7 of 1990

Chandrakant Kohanlal Somaiya APPELLANT

Vs

Dinesh Kumar Jain and others RESPONDENT

Date of Decision : 01-03-1990

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (1990) 03 BOM CK 0015

Hon'ble Judges : S.C. Pratap, J;M.L. Dudhat, J

Bench : Division Bench

Advocate : B.C. Joshi and Miss Sarla P. Sata, for the Appellant; N.T. Saraf and V.S. Gokhale, A.G.P., for the Respondent

Judgement

S.C. Pratap, J.—Hearing counsel on either side and going through the petition and the detailed affidavit-in-reply as also the rejoinder, we are satisfied that this is not a case warranting interference in our writ jurisdiction.

2. Before proceeding further we may mention that on the very first date of the hearing the petitioner appeared in person before us and made a categorical statement that this petition was not filed by him voluntarily, but it was under compulsion of other person. The apart, the detailed affidavit-in-reply discloses a shocking state of affairs and big fraud involving evasion of sales tax to the tune of lakhs of rupees. When the officers visited the petitioner''s declared place of residence it was found that the petitioner was not staying there at all, but one Manilal D. Joshi along with his wife and four children was residing there for the last five years. This Manilal''s statement has been recorded and has also been annexed as exhibit A to the reply. Subsequently when the petitioner was personally contacted by the Sales Tax Officer, he stated that he had no personal knowledge of the details of the business being carried out in his name. Recorded statement of the petitioner further stated that he was working for M/s. Raj Oil Company, Surat, of one Rajubhai Shah on a monthly salary of Rs. 1,200. It was at the instance of this Rajubhai Shah that he came to Palghar and obtained a

sales tax registration number, as per the instructions given to him by Rajubhai. He also stated that all the bill books, delivery challans and letter-heads were not printed by Rajubhai. The petitioner was made to open account in the Bank of Baroda, Mandavi Branch, and in the Union Bank at Vasai.

3. The Sales Tax Officer visiting the premises also found unused blank bill books as also blank cheque books and about 200 statutory declaration forms with the stamp of the dealers thereof erased. Several other facts and circumstances disclosed in the affidavit-in-reply fully justified the action in exercise of powers u/s 39(1A) of the Sales Tax Act.

4. There is also substance in the contention raised on behalf of the sales tax authorities that the petitioner obtained a sales tax registration certificate by furnishing false information and evidence. He also claimed false turnover account of purchase from M/s. Parag Traders, when in investigation it was found that no such purchase has been made. The proprietor of M/s. Parag Traders filed an affidavit before the authorities stating that he had merely supplied bills. The said affidavit is also annexed to the affidavit-in-reply.

5. Though these statements in the affidavit-in-reply are sought to be denied in the rejoinder, we are satisfied that this in any event is not a case warranting interference in our writ jurisdiction under article 226 of the Constitution.

6. Learned Counsel, Mr. Saraf, appearing for the sales tax authorities submitted that pursuant to the investigation which has been made and which is not yet complete, show cause notice will be issued and opportunity will be given to the petitioner to reply thereto.

7. In all the circumstances, we are not inclined to interfere. This petition, therefore, fails and the same is dismissed.

8. Petition dismissed.