
(1986) 09 AHC CK 0082

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 2869 of 1977

Deveudra Kumar Garg and Another

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 09-09-1986

Acts Referred:

Constitution of India, 1950 — Article 19, 226

Registration Act, 1908 — Section 69

Uttar Pradesh Document Writers Licensing Rules, 1977 — Rule 18(1), 3

Citation : (1986) 09 AHC CK 0082

Hon'ble Judges : D.S. Sinha, J;A.N. Varma, J

Bench : Division Bench

Advocate : A.N. Bhargava, for the Appellant;

Final Decision : Dismissed

Judgement

A.N Varma, J, 1. Petitioners Nos. 1 and 2 are licensed deed writers in the Meerut Registration Office. The deed writers have an association called the Deed Writers' Association, Meerut, which is arrayed as Petitioner No. 3. It has 26 members. By means of this petition they have challenged the validity of certain rules (as amended it (1978) framed u/s 69 of the Registration Act by the Inspector General of Registration, Uttar Pradesh. Their contention is that these have imposed restrictions on their right to carry on the profession of deed writing which are unreasonable and are hence violative of Article 19 of the Constitution of India. It may, however, be mentioned here that in the course of arguments learned Counsel for the Petitioners confined the challenge to these rules only on certain specific grounds which shall be dealt with below.

2. Sri G.P. Bhargava, learned Counsel for the Petitioners, did not challenge the power of the Inspector General of Registration to frame these rules. Nor did he question his power to levy a certain amount as fee for granting license to the deed writers attached to the various registration offices of the State. He, however, contended that there was no warrant for increasing the fee from Rs.

20/- to Rs. 40/-.

3. Before we deal with the submissions of the learned Counsel, we will first have a brief look at the relevant statutory provisions of the Registration Act having a bearing on the controversies raised in this petition. Section 69 empowers the Inspector General of Registration of a State to frame rules for the purposes of carrying out the object of the Act. This provision was amended empowering the Inspector General of Registration to frame rules in respect of the deed writers. In exercise of these powers the Inspector General of Registration of Uttar Pradesh framed U.P. Document Writers' Licensing Rules, 1977. These rules were further amended in 1978. Under Rule 3 of the amended rules it was provided that no fresh license shall be issued under the rules to persons other than those specified in Sub-rule (1) of Rule 18 till the number of such licenses falls below the prescribed limit, fixed under amended Rule 3 which prescribes that the number of deed writers for each registration office shall not exceed three for every one hundred documents presented for registration the previous year. Rule 18 as amended, however, provides that the persons holding a license on March 31, 1977 shall not be affected by the limit which may be fixed on the number under Rule 3.

4. Having set out the statutory background, we proceed to examine the contentions of the Petitioner. It was urged that the rules placing a curb on the number of persons who may be granted license as deed writers is an unreasonable restriction in that it takes away the rights of the persons who may be legitimately wanting to engage in the profession in document writing.

5. The contention has to be rejected on more than one ground. In the first place, it has been categorically stated in the counter-affidavit that so far as the Petitioners and the numbers of the Petitioner No. 3 Association are concerned they are all individuals who already held license on March 31, 1977 and, consequently, as a result of the proviso to amended Rule 3 read with Rule 18(I) the Petitioners would not be affected at all by any restriction which might be placed on the number of deed writers.

6. In the next place, in paragraph 4 of the counter affidavit it has been asserted that the number of deed writers was increasing fast regularly which made it hard for the Department to keep an effective watch over their performance and activities. Consequently, in order to ensure that the person approaching members of this profession are not victims of unscrupulous and inefficient deed writers, it was felt that a limit be placed on their number. We find considerable merit in the Respondents' contention. It is common knowledge that more often than not the members of the public who approach the deed writers for drafting of documents required to be registered are illiterate people not conversant with the implications of the recital's which are ultimately scribed by deed writers. These illiterate and innocent people are sometimes victims of corruption which has crept into this profession also. The desire, therefore, to keep a check on the licensed deed writers and with that end in view to limit their number hence

cannot be said to be unreasonable or illegitimate. It is not difficult to visualize that in the absence of any limit on their number such regulation may not be feasible or effective.

7. The second submission of the learned Counsel was that the enhancement of license-fee from Rs. 20 to Rs. 40 is unjustified and unsustainable in that the Registration Office does not provide any extra service to the deed writers so as to warrant the increase from Rs. 20 to Rs. 40. In the counter affidavit it has been asserted that the fee of Rs. 20 per year was fixed in 1920 and that it was only in 1977 that the same was enhanced to Rs. 40 per year as the expenses on the establishment of the Department of Registration and other miscellaneous expenses have increased considerably- Counsel for the Petitioners did not challenge the initial imposition of Rs. 20 as license-fee. His complaint was directed only towards the increase. No argument is necessary to support the assertion made in the counter affidavit that the expenses over the upkeep of the establishment of which the deed writers are a part have soared beyond imagination since 1920. We, therefore, find no merit in this contention either.

8. The third submission of the learned Counsel was that the rates fixed for deed writers as chargeable under the impugned rules on the various types of documents are extremely low. It is doubtful whether this Court exercising powers Under Article 226 of the Constitution of India, can embark upon an enquiry as regards the quantum of fees fixed for the deed writers. However, we have examined the rates which have been fixed for different types of documents in the impugned rules and find that the same cannot be characterized as arbitrary, unjust and unreasonable so as to persuade this Court to strike down the rules on that ground. We find that for ordinary, routine type of applications the deed writers have been permitted to charge small amounts but for the more substantial documents, the fee prescribed cannot be characterized as unduly low or unreasonable. No interference is hence called for on this score either.

9. Lastly, it was submitted that the provision in the rules prohibiting the deed writers from employing assistants without the permission of the authorities are clearly unreasonable and arbitrary. It was urged that in order to enable the deed writers to cope with their workload it does sometimes become necessary to take the assistance of some temporary hands and it would work great hardship on them if they are required to obtain permission of the authorities. We are unable to agree.

10. We think that the requirement of taking prior permission for employing some assistance is quite reasonable and seems necessary to prevent malpractices. It is not difficult to visualize that an unfettered right to employ assistant might result in unauthorized persons doing the work of deed writers in the garb of assistant permanently without having any license there for.

11. In the result, the petition fails and is dismissed but we make no order as to costs.