
(1995) 03 P&H CK 0005
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2054 of 1981

G.G. Printing Press

APPELLANT

Vs

The Municipal Committee and Another

RESPONDENT

Date of Decision : 29-03-1995

Acts Referred:

Punjab Municipal Act, 1911 — Section 123

Citation : (1995) 111 PLR 24

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : S.M.L. Arora, for the Appellant; Rajiv Bhalla and Hemant Kumar, for the Respondent

Judgement

T.H.B. Chalapathi, J.—The writ petition is filed to quash the order of the Executive Officer, Municipal Committee, Jagraon whereby the petitioner was directed to close the working of his Printing Press and the order of Sub Divisional Magistrate, Jagraon passed in appeal u/s 225 of the Punjab Municipal Act, 1911 (for short "the Act").

2. The petitioner which is a Partnership Firm is carrying on business by installing a Printing Press at Jagraon, district Ludhiana. A Licence was granted to the petitioner for running the printing Press in the year 1979 and it was renewed for the years 1980-81. It appears that some of the residents of the locality including respondent No. 2 made a representation to the Municipal Committee that the Printing Press was located in the residential area and it was causing a nuisance to the public and, therefore, the Printing Press might be ordered to be closed. Thereupon, it appears that some inspection of the premises was made and ultimately the Executive Officer of the Municipal Committee directed the petitioner to close the working of the Printing Press from the premises situated at Hospital Road Jagroan. This order has been confirmed by the Sub Divisional Magistrate, Jagroan on an appeal filed u/s 225 of the Act.

3. The learned Counsel for the petitioner contend that the Executive Officer has

no power to cancel the licence which has been issued to him and, therefore, the order of the Executive Officer dated 3.9.1980 attached as Annexure P5 to the writ petition is illegal and liable to be quashed. Section 123 of the Act provides for discontinuance of the licence if the business carried on under the said licence is a nuisance to the neighbourhood or likely to be dangerous to life health or property. u/s 123 of the Act, the power to cancel is conferred on the Municipal Committee, if it appears that such licence is used for a purpose which is a nuisance to the neighbourhood or it likely to be danger to life. Section 4 of the Punjab Municipal Executive Officers Act, 1931 provides for exercise of certain powers and functions of the Municipal Committee by the Executive Officer. Such powers have been mentioned in Schedule 1 of the Act. The power to direct to discontinue the business u/s 123 of the Act. is not included in Schedule 1 of the Punjab Municipal Executive Officers Act, 1931. Therefore, it is clear that the Executive Officer of the Municipal Committee has not power to cancel the licence and direct the closure of the business. On this ground itself, the order under Annexure P5 is liable to be quashed.

4. It is brought to my notice that the period for which the licence was granted, expired long back. The licence was originally granted in 1979 and was renewed for the years 1980-81 and the licence which was cancelled by the Executive Officer, was stayed by this Court and the petitioner was allowed to continue the business in the said premises by virtue of the orders of the Court. The learned counsel for Respondent No. 1 contended that as the period for which the licence was renewed has expired, no useful purpose will be served by quashing the order under Annexure P5. However, the learned counsel for respondent No. 1 stated that the petitioner is continuing his business only by virtue of the order of this Court without any fresh licence or renewal for subsequent period after 1981 but the fact remains that the petitioner has been continuing his business by virtue of the orders of this court. The learned counsel for respondent No. 2 brought to my notice that the petitioner is not now doing the business of Printing Press at the premises situated at Hospital Road, Jagroan. This fact is controverted by the learned counsel for petitioner.

5. In the circumstances of the case, I dispose of the writ petition with the following directions :-

i) The Executive Officer of the Municipal Committee has no power to cancel the licence once granted u/s 123 of the Punjab Municipal Act, 1911. Therefore, the order dated 3.9.1980 attached as Annexure P5 will not have any effect.

ii) As the period for which the renewed licence was granted, expired in 1981, the petitioner is directed to file an application, if he so desires within one month from today for grant of licence u/s 121 of the Punjab Municipal Act. If such an application is made within one month from today, it is open to the Municipal Committee or the Executive Officers while exercising its powers u/s 4 of the Punjab Municipal Executive Officer Act. 1931, either to grant or refuse the licence applied for taking into consideration all the relevant factors and in accordance

with law. The Municipal Committee, Jagroan or the Executive Officer shall decide the application within a period of one month from the date of said application after inviting the objections from the General Public, from the date of said application.

iii) The petitioner, if he is really carrying on business in the premises at Hospital Road, Jagroan, is allowed to continue and carry on the business for a period of two months from today. If he is not carrying on business as contended by the learned counsel for the respondents, he is not entitled to do so. But he may start to have the printing press in the premises at Hospital Road, Jagroan after obtaining a valid licence either from the Municipal Committee or from its Executive Officer.

There will be no order as to costs.