

(1984) 01 KAR CK 0030
In the Karnataka High Court
Case No : Writ Petition No. 8553 of 1982

Hutchaiah

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 11-01-1984

Acts Referred:

Constitution of India, 1950 — Article 226

Karnataka Money Lenders Act, 1961 — Section 6, 6 (4), 7, 7 (1)

Citation : (1985) ILR (Kar) 1048

Hon'ble Judges : K.A. Swami, J

Bench : Single Bench

Advocate : N. Raghupathy, for the Appellant; S. Udayashankar, HCGP, for the Respondent

Final Decision : Allowed

Judgement

K. A. Swami, J.—Though this, Petition is posted for orders by, consent of parties, it is taken up for final hearing as it involves a short point

2. In this Petition under Article 226 of the Constitution, the Petitioner has sought for quashing the order dated 12th November 1981 passed by the Registrar General of Money Lenders and Pawn Brokers in Karnataka refusing to renew Money Lenders Licence for the year 1980, and also the order dated 18/19-2-1981 bearing No. RML. 2776/80-81 passed by the Registrar of Money Lenders, Bangalore City. It is not in dispute that the application for renewal has been filed beyond the time. Under Rule 5(2) of the Karnataka Money Lenders Rules, 1965 (hereinafter referred to as the Rules), an application for renewal of licence is required to be made on any day within two months prior to the expiry of the licence. The authority has dismissed the application on the ground that the application is filed beyond the time. Therefore, it | need not be enquired into.

2.1 The contention of the Petitioner is that under the proviso to sub-section (4) of Section 6 of the Karnataka Money Lenders Act, 1961 (hereinafter referred to as the "Act") an application for renewal can be made even after the expiry of the

period prescribed under the Rules and such an application is maintainable, provided it is accompanied by a licence fee at double the rate specified in the said sub-section.

2.2 It is submitted that accordingly the Petitioner has made an application accompanied by a licence fee at double the rate as provided u/s 6 of the Act. It is further submitted that Section 7 which provides for grant of licence land entry in the register applies not only to an application filed for grant of licence but also to an application filed for renewal as provided in the proviso to sub-section (4) of Section 6 of the Act. Therefore, the Learned Counsel submits that the authority is not justified in rejecting the application without holding an enquiry as required by Section 7 of the Act. Section 7(1) of the Act reads as follows : -

"On receipt of an application u/s 6 and after making a summary inquiry in accordance with the prescribed procedure, the Assistant Registrar shall forward the application, together with his report, to the Registrar. The Registrar may after making such further inquiry, if any, as he deems fit, grant the applicant a licence in such form and subject to such conditions as may be prescribed and direct the Assistant Registrar to enter the name of such applicant in the register maintained by him u/s 4.

If the application is in respect of more than one place of business in the area under the jurisdiction of the Registrar, a separate licence in respect of each such place shall be granted in the name of the applicant and the person responsible for the management of the business at such place".

3. Thus the aforesaid provision makes it clear that an application filed u/s 6 of the Act, is required to be enquired into and disposed of in accordance with the above provision. That being so, an application filed under sub-section (4) of Section 6 of the Act, even though it is beyond the time, if it is accompanied by a licence fee at double the rate as specified, is an application for the purpose of Section 7 of the Act, and it has to be enquired into and disposed of in accordance with the provisions contained in Section 7 of the Act. It is also not in dispute that the application has been rejected without holding an enquiry.

4. It is submitted by Sri S. Udayashankar, Learned High Court Government Pleader, that during the period in respect of which the renewal is sought, the Petitioner has committed several acts in contravention of the provisions of the Act, and granting of renewal would amount to condoning all those acts by the authority. It does not necessarily follow, as it is always open to the authority, if the enquiry reveals that certain illegalities are committed by the applicant during the period in respect of which the renewal is sought for by the applicant, to refuse to renew the licences. But, it is necessary that an enquiry has to be held u/s 7 of the Act and if that enquiry reveals such acts of commission and omission which go to show that it is not at all just and proper, or it is not permissible having regard to the object and scheme of the Act, and the provisions contained therein, to renew the licence the authority can refuse to renew the licence.

Therefore, the rejection of the application without holding an enquiry as per Section 7 of the Act, read with Rule 8 of the Rules, cannot be sustained.

5. The original authority has refused to consider the application and the appellate authority has dismissed the appeal on the ground that the application is filed beyond the time. Therefore, it is necessary to remit the matter for fresh consideration. Accordingly, this Writ Petition is allowed. The impugned orders bearing No. RML. 2776/80-81, dated 18/19-2-1981 at Annexure "A" and Annexure "C" bearing Appeal No. RGML. 6/81, dated 12-11-1981, are hereby quashed and the matter now stands remitted to the 4th Respondent-Assistant Registrar of Money-Lenders, Chamarajpet with a direction to hold an enquiry as per Section 7 of the Act read with Rule 8 of the Rules, into the application for renewal filed by the Petitioner, if that application has been accompanied by a licence fee at double the rate as provided under sub-Section (4) of Section 6 of the Act and decide the application in accordance with law and in the light of the observations made in this order.