
(1982) 08 GAU CK 0020
In the Gauhati High Court
Case No : Civil Rule No. 942 of 1981

Jogendra Nath Das

APPELLANT

Vs

Sub-divisional Officer Nalbari and Ors.

RESPONDENT

Date of Decision : 09-08-1982

Acts Referred:

Citation : (1983) 2 GLR 133

Hon'ble Judges : K.Lahiri, J and T.C.Das, J

Bench : Division Bench

Advocate : A.Sarma, B.Dutta, Advocates appearing for Parties

Judgement

Lahiri, J.—As many as 17 petitionwriters by any standard "poor persons" have been partially thrown out of profession by an order of the SubDivisional Officer Nalbari.

2. In this writ application the petitioners complain that they used to write petitions and acted as petitionwriters in the office of the SubDeputy Collector Tamulpur Circle and there was no complaint against them from any quarter. To keep control and supervision over these "writers" the then Deputy Commissioner Kamrup used to issue licence or permit. The object for granting licence was to allow only a class of persons to do certain types of professional job which require some expertise. Later the licencing authority was the SubDivisional Officer. The petitioners claim that they were granted licence however the SubDivisional Officer Nalbari notwithstanding the prayers of the petitioners refused to grant them fresh licence or renew their licences which they had and ultimately by an order dated 19.9.81 the then S.D.C. Tamulpur Circle permitted only two petition writers to write petition of the litigant public who had business in the Court of the SubDeputy Collector and no one else. Thus the Officer debarred the petitioners to continue with this professional work without any cause and without any authority of law submit the petitioners.

3. The impugned order reads as follows;

"It is hereby informed that the following petition writers only will henceforth write petitions for the public. All other petition writers are hereby asked not to appear to write petitions to the public.

Disobedience to the above order will be dealt with seriously. Name of permitted petitionwriters

1. Shri Sashi Mahanta
2. Shri Dildar Sargiary.

Sd/D.N. Brahma

SubDeputy Collector

Tamulpur Circle.

It follows that except Shri Sashi Mahanta and Sri Dildar Sargiari no one is allowed to write petition in the office of the Court of the SubDeputy Collector.

4. Mr. Sarma learned counsel for the petitioners submits that the petitioners were granted permission to write petition and they were all granted licences therefor. However one fine morning the learned S.D.C. without issuing any notice or without giving any opportunity to the petitioners forbade them to continue their profession. According to them this is violative of the principles of natural justice as well as hit by Articles 19 and 14 of the Constitution.

5. Regulatory methods prescribed by or under the law are necessary to control even professional activities. For just and sufficient reason a person may not be permitted to act as petitionwriter. However there must be just and sufficient reason or the backing of some authority of law. How could the SubDeputy Collector forbid the petitioners to write petitions on behalf of the public ? It is true that to prevent overcrowding or to restrict the activities to a limited persons or for the public good it is desirable to introduce licencing system. However before granting licences or permissions to two persons the petitioners who were doing professional work ought to have been given chance to apply and obtain licence as petitionwriters in the office of the SubDeputy Collector. Upon consideration of their applications it was the duty of the authority to allow or not to allow them to carry on their professional activities. In case of refusal it is the duty of the authority to record reasons for such refusal. The grounds for rejection must be just proper and appropriate. It is undoubtedly true that some sort of restriction is necessary and only some licenced persons should be allowed to practice. But persons having professional experience ought not to be forbidden to continue with their professional activities unless there is strong ground for not allowing them to carry on their profession. In fact they have been partially thrown out of employment.

6. Mr. Sharma learned counsel for the petitioners also agrees that there must be some restriction and only some competent persons should be allowed. Mr. Sharma submits that the petitioners have all requisite qualifications.

7. We find from the records at our disposal that all these persons had previously did professional work in the office of the SubDeputy Collector. We feel that the impugned order is only a preliminary order aid not a final one in the sense that persons who desire to obtain licence may apply in writing to the SubDivisional Officer and their cases will be considered. It they are net disqualified or incompetent to act as petitionwriter or if there is no other just and sufficient reason they should not be forbidden. It is desirable that in the public interest the petitioners should be allowed to practice in the Court of the SubDeputy Collector. In fact limiting the petitionwriters only to two in number is to further public inconvenience. At the same time if the number is increased the licenceholders" interests might be adversely affected. In our opinion public interest will be upheld if some nacre competent persons are also allowed to write petitions on behalf of the public and/or litigant public.

8. We hold that the petitioners have their right to apply before the SubDivisional officer Nalbari to obtain licence and or to renew their licence. We alto hold that the S.D.C. Nalbari is bound to consider their applications and dispose them on merits. While considering the applications it will be the duty of the SubDivisional Officer Nalbari to give reasons if he rejects application of any of the petitioners.

9. In the result the petition is allowed to the extent indicated above. If any of the petitioners are affected by subsequent order of the S.D.C. Nalbari they shall have liberty to come up before this Court to ask for appropriate relief. We make it clear that the licence granted to Shri Sashi Mahanta and Shri Didar Sargiary shall in no way be affected by viture of this order. There will be no order as to cost.