

(1983) 11 MAD CK 0019
In the Madras High Court
Case No : Writ Petition No. 928 of 1979

Johnson Industries

APPELLANT

Vs

Joint Chief Controller of Imp. and Exp., Madras-I

RESPONDENT

Date of Decision : 29-11-1983

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1983) 11 MAD CK 0019

Hon'ble Judges : Venkataswami, J

Bench : Single Bench

Advocate : E.S. Govindan, for the Appellant; Abdul Kalam, for the Respondent

Judgement

Venkataswamis, J.

1. The petitioners are manufacturers of stainless steel utensils and they are getting allotments from the Minerals and Metals Trading Corporation as actual users. It appears that five R.E.P. licence were obtained by various registered exporters under Policy 77-78 and 78-79 for a sum of Rs.

1,19,237. The said registered exporters transferred their licences to the petitioners herein. On the strength of the transferred licences the petitioners

applied to the first respondent for an endorsement on 15th November, 1978 for the import of stainless steel sheets/strips. In fact, the first

respondent gave such endorsements on various dates between 25th November, 1978, and 4th December, 1978. On the basis of these

endorsements, the petitioners opened a letter of credit for the value of Rs. 1,19,237 in favour of the exporters, namely, Fanklin Stainless

Corporation, U.S.A. While so, the petitioners received a letter on 9th December, 1978, from the 1st respondent dated 8th December, 1978.

calling upon them to forward immediately the licences. The first respondent also informed the petitioners not to open any letter of credit or enter

into any commitment. To this, the petitioners replied on 9th December, 1978, stating that they had already opened letter of credit on 7th

December, 1978, and consequently committed themselves. Notwithstanding this, the first respondent issued a show cause notice on 21st

December, 1978, asking the petitioners to show cause why the endorsement already made for the import of stainless steel/sheet thinner should not

be cancelled. To this show cause notice, the petitioners by their letter dated 27th December, 1978, requested time for filing reply till 5th January,

1979. It may be mentioned that the show cause notice fixed 29th December, 1978, as date of hearing. In the meanwhile, in the light of the show

cause notice, the petitioners also took steps to cancel the purchase order already made. To this, the petitioners received a letter from the foreign

seller stating that it was not possible to cancel the order already made. The first respondent has passed the impugned order on 4th January, 1979,

cancelling the endorsements already made. It is under these circumstances that the present writ petition has been filed to quash the impugned order

dated 4th January, 1979.

2. The writ petition was admitted on 8th March, 1979, and the petitioners filed an additional affidavit on 3rd April, 1979, a copy of which has

been served on the then Counsel for the Central Government. In the additional affidavit the petitioners have alleged that the first respondent has

issued licences to persons similarly situated like the petitioners, and therefore the impugned order was challenged on the ground of violation of

article 14 of the Constitution of India.

3. As I am inclined to allow the writ petition on the ground that the petitioners were not given sufficient opportunity to put forward the case, I am

not going into the merits both in the affidavit and in the additional affidavit. It is not the case of the department that the petitioners misled the

department and got the endorsements. It appears that it is the department which had made the mistake in making the endorsements and in such

context, the department should have given reasonable opportunity to the petitioners to put forward their case. It is not as if the petitioners have

asked for time unreasonably. For the show cause notice, they have asked for

time on one occasion for which no reply was given. Only final orders were passed. Therefore I am satisfied that the petitioners were not given reasonable opportunity to put forward their case.

4. In the light of what is stated above, the writ petition is allowed and the impugned order is set aside and if the first respondent considers that the matter should be proceeded with further, it is open to the first respondent to proceed with the matter after giving reasonable opportunity to the petitioner. There will be no order as to costs.