
(1975) 10 RAJ CK 0008
In the Rajasthan High Court
Case No : Civil Writ Petition No. 102 of 1975

K. Haqiquatullah Khan

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 17-10-1975

Acts Referred:

Press and Registration of Books Act, 1867 — Section 11A, 16A, 8B, 8C

Citation : (1975) WLN 528

Hon'ble Judges : C.M. Lodha, J

Bench : Single Bench

Judgement

C.M. Lodha, J.—A show cause notice was issued to the non-petitioners in this case regarding admission of the writ application In response to the show cause notice, the State of Rajasthan has filed a detailed reply to the writ petition itself.

2. The complaint of the petitioner is that the declaration given by him as the publisher of the weekly newspaper "Paigame Haquiat" has been wrongly cancelled by the District Magistrate, Jodhpur. by his order dated June 28. 1975 (Exhibit R/3). It has been contended that no opportunity of showing cause as provided in Section 8B of the Press and Registration of Books Act, 1867 (which will hereinafter be referred to as "the Act") was given to the petitioner. It is also contended that Section 8B has no application to the facts and circumstances of the present case.

3. The reply on behalf of the State is that the petitioner had ceased to be the printer and publisher of the newspaper mentioned in the declaration, inasmuch, as he had not published the paper regularly in the year 1974. It be also been urged that the publisher failed to comply with the provisions of Section 11A of the Act, inasmuch as he failed to deliver free of expense two copies of each issue of such newspaper as soon as it was published during the year 1974-75. As to the question of opportunity being given to show cause, it has been pointed out that before cancelling the declaration the petitioner had been served with show cause notice dated July 29, 1975 and August 16, 1975, Another letter is alleged

to have been sent on July 18, 1975. The learned Deputy Government Advocate has also placed before me the original reply dated August 6, 1975 signed by the petitioner wherein it has been mentioned that the petitioner had received the letter from the District Magistrate Jodhpur dated July 29, 1975. It further appears and is not denied before me that even when being called upon to produce the copies of the newspaper for the years 1974 & 75, the petitioner produced copies of the newspaper published in 1975 only. It is thus abundantly clear that the petitioner had not complied with the provisions of Section 11A of the Act during the years 1974-75 and had also not published the newspaper regularly during the year 1974.

4. Learned Counsel for the petitioner contends that even in case of non-compliance with the provisions of Section 11A of the Act, the declaration cannot be cancelled and action can only be taken u/s 16A of the Act for imposition of penalty for failure to supply copies of newspaper to the Press Registrar. This argument, in my opinion, is not tenable, inasmuch as Section 16A provides that if any publisher of a newspaper published in India neglects to deliver copies of the game in compliance with Section 11A, he shall, on the complain of the officer to whom copies should have been delivered or of any person authorised by that officer in this behalf, be punishable, on conviction by a Magistrate having jurisdiction in the place where the newspaper was printed, with fine which may extend to fifty rupees for every default. Thus in addition to the administrative action which may be taken against the petitioner for cancellation of the declaration, he can also be exposed to prosecution u/s 16A of the Act.

5. Section 8B of the Act which provides for a cancellation of declaration says that declaration is liable to be cancelled if the Magistrate is satisfied that the newspaper in respect of which the declaration has been made is being published in contravention of the provisions of that Act or Rules made thereunder. Learned Counsel has contended that delivery of copies of newspaper to the Government is not a part of publication and, therefore, this clause has no application. It may be pointed out that the word "publish", inter alia, means "to produce for publication or allow to be issued for distribution or sale" (Webster's International Dictionary Vol. II). Thus if the publisher does not comply with the provisions of Section 11A of the Act, in that case it can very well be said that the newspaper is being published in contravention of the provisions of the Act. I am, therefore, of opinion that the case on hand is covered by Clause (1) of Section 8B of the Act.

6. Besides that, it is contended by the learned Deputy Government Advocate that the petitioner did not publish a single copy of the newspaper during the year 1974 and he challenged the learned Counsel for the petitioner to produce one, if he had in fact published the newspaper in 1974. But the learned Counsel for the petitioner could not do so. It is also clear from Exhibit R/1 that inspite of being called upon by the District Magistrate to produce the copies of newspaper published by him in the year 1974, the petitioner had failed to publish the newspaper in the year 1974 and had thus ceased to be the publisher of the

Newspaper mentioned in his declaration.

7. Clause (3) of Section 8B of the Act provides that the declaration is liable to be cancelled if the printer and publisher ceased to be the printer and publisher of the newspaper mentioned in such declaration. Thus the case is covered by Clause (3) also.

8. In this view of the matter, there is no substance in this writ petition and it is hereby dismissed.

9. Before parting with the case, I may refer to one more aspect of the matter and it is this that Section 8C of the Act provides a right of appeal to the aggrieved party before the Appellate Board consisting of a Chairman and another member to be appointed by the Central Government. On the last date, I called upon the learned Deputy Government Advocate to point out whether the Board has been constituted and if to where it is functioning, because the contention raised by the learned Counsel for the petitioner was that no such Board has been constituted. Learned Deputy Government Advocate inspire of taking two adjournments has not been able to point out whether the Appellate Board has been constituted and if so what is its personnel and where its office is located. In these circumstances I have thought it fit to hear the writ application on merits.