

(1960) 03 AHC CK 0040
In the Allahabad High Court
Case No : Civil Misc. Writ No. 2330 of 1957

Kailash Chandra and Others	Vs	APPELLANT
The Dist. Registrar, Registration Department, Agra		RESPONDENT

Date of Decision : 10-03-1960

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1961 All 61

Hon'ble Judges : V.D. Bhargava, J

Bench : Single Bench

Advocate : S.N. Kacker and J.N. Chatterjee, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

V.D. Bhargava, J.—This is a writ petition under Article 226 of the Constitution filed on behalf of four persons, Kailash Chandra, Ansar Husain, Alauddin Khan and Ram Narain, all of whom claimed to be deed writers. They were practising in the registration office at Firozabad district Agra under licences granted to them. The licence of all of them has been cancelled and, therefore, this writ petition has been filed.

2. The right of each petitioner is separate and distinct and is not one. Therefore, a joint petition by four of them is not maintainable, as has been held in *Uma Shankar Rai and Others Vs. Divisional Superintendent, Northern Railway, Lucknow and Others*,). Learned counsel for the petitioners elects to press this petition on behalf of Ansar Husain and he prays that the names of Kailash Chandra, Alauddin Khan and Ram Narain be deleted from this petition. These persons may be making separate petitions if so advised.

3. The petitioner practised as deed-writer for some time and on the 6th of August, 1959, he was informed that his licence was cancelled and he was required to sign on the notice which came from the office of the District Registrar,

Agra. No copy of the said notice was handed over to the petitioner. The petitioner was kept completely in dark as to why his licence had been cancelled. The petitioner claimed that he was entitled to a show cause notice and in any event the order of the District Registrar should have given good reasons for cancelling the licence as required by Rule 9 of the general notification. Licences are granted to the deed-writers under Notification No. 182/141-1926 dated 25th May 1928 which gives the power to the District Registrar to fix the number of the deed-writers and it is he who has to issue licences.

Licence has not to be given to a deed-writer unless it is found that he is of good character, that he can draw up a clear and straightforward deed; that his handwriting is legible and that he has a fair knowledge of law relating to stamp and registration. Under Rule 9 of the same Notification permission to practise as a deed-writer could be cancelled by the District Registrar if the deed-writer (a) has not paid quarterly fees, (b) has failed to attend office regularly without the permission of the District Registrar, (c) has become a tout as defined In the Legal Practitioners Act or has accepted the membership of a pleader, (d) has been found guilty of abetment of or participation in any illegal transaction or unfair dealings by the office staff, (e) is guilty of disobedience of a lawful order, or (f) for any other good cause to be recorded by the District Registrar.

4. On behalf of the petitioner it has been urged that when specific grounds have been laid down in the rule in accordance with which a licence could be cancelled, the District Registrar, would have no authority to cancel or suspend the licence unless it came within one of those categories.

5. On behalf of the respondent it has been urged that granting of licence for the deed-writers is a special right, which has been given to the District Registrar in which the petitioner had no fundamental right. Moreover, the order of cancellation is in the nature of an administrative order. It is true that ordinarily this Court does not interfere with administrative orders, but if the jurisdiction of an administrative officer is, limited and the administrative officer exceeds that jurisdiction, then this Court can certainly go into the question whether the administrative order of the administrative officer was within his power or not. Similarly, there are certain orders, where there has been made a provision that reasons would be recorded and it reasons are not recorded then the officer has failed in his duty.

Here, what appears from, the counter affidavit is that certain complaints had been made against the petitioner; an enquiry was made at the back of the petitioner by the C. I. D. and information was communicated by the C. I. D. to the Inspector General, who directed the District Registrar to cancel the licence under R. 9. The District Registrar without exercising his own mind to the facts of the case, probably in accordance with the direction of the Inspector General, cancelled the licence. It was the duty of the District Registrar to have exercised his discretion and he should have found out, whether any of the conditions under which the licence could be cancelled had been satisfied or not.

If the licence was being cancelled and the reasons for which licence could be cancelled are specific under the principles of natural justice the petitioner should have been given an opportunity to show that he had not committed any of the breaches mentioned in Rule 9. Under the circumstances, I think the order of the District Registrar is very cryptic and has not given any reason at all. It is as follows :

"Under Rule 9 read with Rule 6 of the Govt. Notification No. 182/141 1926 the licenses of Sarvasri Kailash Chandra, Ansar Husain, Alauddin Shah and Ram Narain Deed-Writers at the Registration, Office, Firozabad are cancelled."

I think this order, under the circumstances, is not a proper order and the District Registrar, if he wants to take any action against the petitioner, should act in accordance with the law as contained in the Notification. I, therefore, quash the order of the District Registrar dated the 3rd of August, 1957.

6. In case the District Registrar, treats this order of cancellation also in respect of Sarvasri Kailash Chandra, Alauddin Khan and Ram Narain, then it is not necessary for them to file a writ petition under Article 226 of the Constitution otherwise they are at liberty to file the same. The writ petition is accordingly allowed and the petitioner shall be entitled to his costs.