

(1975) 04 AHC CK 0057

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 6780 of 1972

Kali Charan Gupta

APPELLANT

Vs

Collector, Cum-District Magistrate and Others

RESPONDENT

Date of Decision : 15-04-1975

Acts Referred:

Constitution of India, 1950 — Article 226

Uttar Pradesh Petition Writers (Revenue Court) Rules, 1968 — Rule 17

Citation : (1975) AWC 508

Hon'ble Judges : K.N. Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K.N. Singh, J.—The Petitioner holds a licence from the Collector of Etawah under the U.P. Petition Writers (Revenue Court) Rules, 1968, permitting him to sit in the Collectorate compound and to write petitions and deeds. The Collector Etawah by his order dated 8th October, 1972, rescinded the Petitioner's licence. Aggrieved, the Petitioner approached this Court under Article 226 of the Constitution for quashing the said order.

2. This petition was admitted in November, 1972, and notices were issued to the Respondents which include the Collector and City Magistrate, Etawah. Time was granted to the Respondent for filing counter-affidavit but till today no counter affidavit has been filed. In the circumstances the averments made by the Petitioner in his affidavit filed in support of the petition remain uncontroverted. Today when the case was taken up for hearing Sri R.B. Mehrotra, appearing for the Respondents made a request for adjournment of the case to enable the Respondent's to file a counter-affidavit. As already noted the writ petition was filed in 1972. More than a period of 2 1/2 years has passed but the Respondents did not care to file counter-affidavit. In the circumstances I find no justification to grant time to the Respondents. If they wanted to contest the petition they should have taken care to file counter-affidavit within time. The Petitioner has asserted

that the impugned order was passed without giving him any opportunity of showing cause. He has further asserted that there was no complaint against him and he was not given any opportunity of explanation before the issue of the impugned order. It has been further asserted that the order was passed arbitrarily without giving any reasons therefor. As already noted these allegations are not controverted by the Respondents. In the circumstances, I have no reason to discard the Petitioner's statement on oath that he was not given any opportunity of explanation before the impugned order was passed.

3. Rule 17 of the U.P. Petition Writers (Revenue Court) Rules 1968, lays down that the Collector may cancel a licence on one or more of the grounds mentioned in Sub-clauses (a) to (g). A licence can be cancelled on the ground that the licensee violated any of the conditions of the licence or that he committed any misconduct or that he failed to pay his quarterly fee or is found guilty of disobedience of a lawful order or of abetment of or participation in any illegal transaction or unfair dealing. Clause (2) further empowers the Collector to cancel the licence if the petition-writer fails to maintain good behaviour and to comply with the general orders of the Collector. The clause however further requires that the order cancelling the licence must be recorded in writing. A licence granted under the said rules conferred a legal right on the Petitioner to carry on his business of petition writer. That right cannot be taken away without giving him any opportunity of explanation or requiring him to show cause against the action proposed. Once a licence is to be cancelled it is necessary that the principles of natural justice should be complied and an opportunity should be given to the licensee. It is well settled that an order passed in violation of the principles of natural justice is rendered void. In the circumstances I hold that the impugned order was passed in contravention of the principles of natural justice.

4. The impugned order of the Collector is a lacunic order, it does not contain any reasons. Rule 17 requires that reasons should be recorded in cancelling a licence. In the absence of reasons the order cannot be sustained in law. The order is rendered illegal on this ground also.

5. In the result I allow the petition and quash the impugned order dated 8th October, 1972. The Petitioner is entitled to his costs.