
(1993) 03 GAU CK 0001
In the Gauhati High Court
Case No : Civil Rule No. 1219 of 1988

Kamal Kishore Kanoo

APPELLANT

Vs

State of Assam

RESPONDENT

Date of Decision : 02-03-1993

Acts Referred:

Constitution of India, 1950 — Article 226, 226

Citation : (1996) 1 GLJ 582

Hon'ble Judges : J.Sangma, J

Bench : Single Bench

Advocate : R.L.Yadav, K.C.Mahanta, Advocates appearing for Parties

Judgement

1. By this petition under Article 226 of the Constitution the petitioner prays for quashing the order dated 23.5.88 issued by respondent No.2 (the Deputy Secretary to the Govt. of Assam, Home (C) Department) rejecting his application for grant of licence in Form XI for dealership in Arms/Ammunitions.

2. The petitioner is a permanent resident of Guwahati town in district of Kamrup, Assam. He applied on 1.3.82 to respondent No. 1 (District Magistrate, Guwahati) in Form XI for dealing in Arms/Ammunitions and repair. The District Magistrate sent the application to the Superintendent of Police of Guwahati for verification. The Superintendent of Police after making enquiry into the matter returned the application on 27.5.82 to District Magistrate, Kamrup, Guwahati with a reply that on record there was nothing adverse against the petitioner either politically or otherwise. The District. Magistrate of Guwahati then forwarded the application with recommendation to the Secretary, Govt. of Assam, Home Department who in turn forwarded it to Government for consideration.

3. As advised by the Commissioner, the petitioner deposited licence fee of Rs.45/ under treasury challan No.320 on 22.9.82 under the Head 055 Misc Receipt. On 22.9.82 the petitioner submitted an application to Under Secretary to the Govt. of Assam, Home (C) Department requesting to enter petitioner's firm name as M/

s North Eastern Arms Company.

4. Thereafter the petitioner did not receive favourable reply from the respondents ends. Therefore, the petitioner again on 13.6.83 submitted a letter to the respondent No.2 requesting to issue licence early as the petitioner took lease of a room by giving advance of Rs. 10,000/ for running his business and he was facing hardship and financial loss. The respondent No.2 vide its letter dated 2.12.83 informed that in view of the prevalent situation in the State licence could not be granted to the petitioner.

5. The petitioner made application to the Hon"ble Chief Minister to review the order dated 2.12.83 passed by respondent No.2. The Hon"ble Chief Minister passed an order asking the petitioner to come for review of the matter after six months.

6. After waiting for one year the petitioner filed an application to the Commissioner and Secretary, Home, Govt. of Assam, Dispur for issuance of licence. The Deputy Secretary to the Govt. of Assam, respondent No.2 by his letter dated 11.4.88 informed the petitioner that dealership licence in Form XI could not be considered and asked the petitioner to take refund of the fee paid by him.

7. Being aggrieved by the aforesaid letter dated 11.4.88 the petitioner filed a Civil Rule No.697 of 1988 before this Court. This Court by order dated 2.5.88 directed the Licensing Authority to furnish the reason as to why licence could not be granted to the petitioner. The grievance of the petitioner is that

Government issued licence to others and denied the same only to him. Recently the District Magistrate, Guwahati again recommended the case of the petitioner to the respondent No.2 for granting a licence to the petitioner.

8. Mr. KC Mahanta, learned Govt. Advocate stated that on earlier occasion Govt. thought it not proper to issue the licence in view of the then prevailing situation but now he stated that in view of the recent recommendation by District Magistrate, he was unable to seriously oppose the petition.

9. Upon hearing the learned counsel for the petitioner and the learned Govt. Advocate, I find that the petitioner has a case to get the licence. I, therefore, direct the respondents to issue licence to the petitioner within a period of 3 (three) months from the date of receipt of this order. The impugned orders dated 23.5.88 and 11.4.88 issued by respondent No.1 are quashed. The petition is allowed. No costs.