courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 15/08/2026

(1964) 07 MP CK 0002

In the Madhya Pradesh High Court

Case No : M.P. No. 33 of 1964 (J)

K.G. Magrulkar — APPELLANT

Vs

District Registrar and Licensing Authority — RESPONDENT

Date of Decision : 03-07-1964

Acts Referred:
Cattle Trespass Act, 1871 — Section 12
Constitution of India, 1950 — Article 226, 227
Penal Code, 1860 (IPC) — Section 352, 417, 447

Citation : (1965) JLJ 186

Hon'ble Judges : P.V. Dixit, C.J;K.L. Pandey, J

Bench : Division Bench

Judgement

Dixit, C.J.—The circumstances in which this application under articles 226 and 227 of the Constitution has been filed are that in March 1959 the petitioner obtained a licence, under the Madhya Pradesh Document-Writers Licensing Rules, 1955, (hereinafter referred to as the Rules), for practising in Chhindwara district as a Document-writer. The licence was granted in the first instance for a period of one year. But the rafter on the expiry of one year''s period the petitioner was granted a permanent licence under rule 7 of the Rules. In 1962, one Kunjilal reported to the District Registrar and Licensing Authority, Chhindwara, that in his application for the grant of licence the petitioner had deliberately suppressed the fact that he had been convicted some eighteen years back for offences under sections 352 and 447 I. P. C. and u/s 12 of the Cattle Trespass Act. Pursuant to this report, the licensing Authority stated an enquiry and at the end of it cancelled the petitioner''s licence holding that the petitioner had not disclosed in his application for the grant of licence the material fact that he had been convicted for the offences mentioned above.

2. The petitioner then made a representation to the Inspector General of Registration, Madhya Pradesh, against the order of cancellation passed by the Licensing Authority. The Inspector General of Registration heard the petitioner and then, in the exercise of his powers under rule 17 of the Rules, made an order

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/kg-magrulkar-appellant-hash-district...

that the period from the date of the order of cancellation passed by the Licensing Authority upto the date of the order passed by him under rule 17 should be treated as "suspension period of the applicant" and that in case the petitioner applies again to the Licensing Authority giving full and correct particulars, as required by the rules, in his application for grant of a licence, the said Authority should "re-examine his case for fresh appointment keeping in view the principles of equity, justice and good conscience". The petitioner then made a fresh application for the grant of a licence mentioning inter alia the fact that he had been convicted several years back under sections 352 and 417 I. P. C. and section 12 of the Cattle Trespass Act. The Licensing Authority, accepting the petitioner''s contention, came to the conclusion that the offences for which he was convicted did not involve moral turpitude or depravity of character and the grant of a licence could not be denied to him because of those convictions. The Authority, however, formed the opinion that a report given by the Superintendent of Police, Chhindwara, about the petitioner''s character showed that he was not a fit person for the grant of a licence. The Licensing Authority observed that it was not desirable in public interest to disclose the police report; that the said report was read over to the petitioner and he was offered an opportunity to challenge it; that the applicant merely denied the report; and that the police report could not be brushed aside merely because of the petitioner''s denial. On this view, the Licensing Authority refused to grant a licence to the applicant.

3. The petitioner now contends that the legal effect of the order made by the Inspector General of Registration under rule 17 was that the order passed by the Licensing Authority cancelling his licence was set aside and the licence was suspended from 27th November 1962 till the time the Licensing Authority determined after enquiry whether the petitioner''s conviction for offences under sections 352 and 447 I. P. C. and section 12 of the Cattle Trespass Act involved any moral turpitude so as to entail the cancellation of the licence. It is further urged that the Inspector General of Registration was not justified in asking the petitioner to make a fresh application for the grant of a licence when he only suspended the licence granted to the applicant and that the Licensing Authority should have revoked the suspension of the licence when it found the conviction for the aforesaid offences did not involve any moral turpitude and was not right in refusing to grant a licence to the applicant on the basis of a confidential police report that it took into consideration. The petitioner prays that appropriate writs be issued for quashing the direction given by the Inspector General of Registration for making a fresh application for the grant of a licence, for quashing the order dated the 6th September 1963 of the Licensing Authority refusing a licence, and for restoring the permanent Fcence granted to him in 1960.

4. In our opinion, this petition must be granted. Under rule 7 of the Rules, a permanent licence is valid till the document-writer attains the age of 60. By rule 15 it is provided that every document-writer, who resigns or whose licence is cancelled or suspended under the rules or who attains the age of 60 years, shall forthwith surrender his licence to the Licensing Authority. Rule 16 deals with the

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/kg-magrulkar-appellant-hash-district…

suspension or cancellation of the licence of a document-writer. It is as follows-

16. (1) The Licensing Authority may at any time suspend or cancel the licence of document-writer on any of the following grounds, namely:-

(a) breach of any of these rules or of the conditions of the licence;

(b) failure to attend the registration office for period exceeding one month without the permission of the Licensing Authority;

(c) for being guilty of participation in any illegal transaction or unfair dealings by public servant in the Registration Department;

(d) disobedience of lawful order of an officer of the Registration Department;

(e) any other sufficient cause to be recorded in writing.

(2) No order under sub-rule (1) shall be passed, unless the document writer has been given an opportunity to be heard in his defence.

These rules make it very clear that once a permanent licence is granted, it can be suspended or cancelled only in the manner laid down in rule 16 and on any of the grounds stated therein. In the present case, the cancellation of the petitioner''s licence by the Licensing Authority on 27th November 1962 on the basis of the report about his convictions made to the Authority by Kunjilal was without any enquiry and in violation of rule 16. The Inspector-General of Registration was, therefore, right in observing in his order allowing the petitioner''s representation against the order of cancellation of the licence that the Licensing Authority should have decided whether the offences for which the petitioner was said to be convicted involved any moral turpitude. He, however, went wrong in directing the petitioner to make a fresh application for the grant of a licence while suspending the one he held for a period from 27th November 1962, the date on which the Licensing Authority cancelled the licence, upto the date of his own order. When the Inspector General of Registration set aside the order of cancellation of the licence and suspended it for a specific period, it meant that the permanent licence granted to the petitioner stood but that its effectiveness was held in abeyance for the period of suspension. The literal effect of the order of the Inspector General of Registration that "the period of 27th November 1962" till the date of his own order "shall be treated as suspension period of the applicant" was that the petitioner''s licence was restored automatically on the date on which the Inspector General of Registration passed the order on the petitioner''s representation. If, however, by asking the petitioner to file a fresh application for the grant of a licence the Inspector General of Registration really intended that the petitioner''s licence should remain suspended until after an enquiry is held into the matter of the petitioner''s convictions and until it is determined whether the convictions involved any moral turpitude, then the Licensing Authority was bound to revoke the suspension of the licence when it came to the conclusion on 6th September 1963 that the petitioner''s conviction for the offences referred to earlier did not involve any

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/kg-magrulkar-appellant-hash-district…

depravity of character. After the Inspector General of Registration made the order suspending the licence, there could be no question of the petitioner making a fresh application for the grant of a fresh licence, and if the petitioner made an application for the grant of a licence as erroneously directed by the Inspector General of Registration, it was in essence and in law nothing but a document giving the necessary particulars about his convictions so as to enable the licensing authority to determine whether those convictions afforded sufficient grounds for cancellation of the licence permanently. The Licensing Authority, therefore, erred in taking into consideration the confidential police report and in holding on the basis of that report that the petitioner was not a fit person for the grant of a licence. The confidential report made by the police to the Licensing Authority is not on record, and it is not known what the police reported against the petitioner. If the Licensing Authority thought that the police report contained material giving sufficient cause for "disbarring" the petitioner from holding, a licence, then it should have taken proceedings against the petitioner under clause (e) of rule 16 (1) for cancellation of the licence. The petitioner could not be deprived of his licence merely on the basis of an undisclosed police-report and without giving him a proper opportunity of hearing in his defence.

5. For these reasons, the order dated the 6th September 1963 of the Licensing Authority is quashed. The respondents Nos. 1 and 2 are directed to restore the petitioner''s permanent licence granted in 1960 and to permit him to practice as a document-writer under that licence. The petitioner shall have costs of this application. Counsel''s fee is fixed at Rs. 50. The outstanding amount of security deposit shall be refunded to the petitioner.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/kg-magrulkar-appellant-hash-district…