
(2000) 05 MAD CK 0009

In the Madras High Court

Case No : Writ Petition 20341 of 20341 of 1992 and WMP No. 29316 of 1992

M.A. Ramakrishnan and 5 others

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 13-05-2000

Acts Referred:

Constitution of India, 1950 — Article 14, 19(1)(g), 226

Citation : (2000) 05 MAD CK 0009

Hon'ble Judges : Y. Venkatachalam, J

Bench : Single Bench

Advocate : M.S. Krishnan, for the Appellant; S. Vadivel, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Y. Venkatachalam, J.—Invoking Art. 226 of the Constitution of India, the petitioners herein have filed the present writ petition, seeking for a writ of certiorarified Mandamus to call for the records of the 2nd respondent relating to the proceedings in Memo. No. 85842/13/90 dated 30.9.92 and to quash the order made therein by the second respondent and further forbear the respondents from preventing the petitioners to function as licenced document writers and copywriters. In support of the writ petition, the petitioner herein has filed an affidavit wherein they have narrated all the facts and circumstances that forced them to file the present writ petition and requested this court to allow the writ petition as prayed for. Per contra, though no counter affidavit has been filed, the learned Government advocate appearing for the respondents argued the matter and pleaded that the writ petition has to be dismissed for want of merits.

2. Heard the arguments advanced by the learned counsel appearing for the respective parties. I have perused the contents of the affidavit together with all other relevant material documents available on record in the form of typed set of papers. I have also taken into consideration the various points raised by the learned counsel appearing for the respective parties during the course of their

arguments.

3. In the above facts and circumstances of the case, the only point that arises for consideration is as to whether there are any valid grounds to allow this writ petition or not.

4. The brief facts of the case of the petitioner as seen from the affidavit are as follows: All the petitioners herein are licensed document writers. Apart from being document writers the 3rd and 6th petitioners herein are also copy writers. They are all document writers having obtained the licence from the 3rd respondent herein. They have filed the present writ petition challenging the order of the 2nd respondent dated 30.9.92 made in Memo No. 85842/13/90 and they are all aggrieved by the said order of the 2nd respondent and the relief sought for by all of them in the writ petition is one and the same. Apart from the relief the cause of action is also one and the same and therefore the petitioners have come forward with the single writ petition. They were working as village karnams and lost their job on the abolition of the post by the Tamil Nadu Government. Pursuant to the judgment of the Supreme Court only some of the karnams and village headmen were appointed as Village Administrative Officers and only recently the Tamil Nadu Government taking a very sympathetic view gave appointment as part time clerks in Panchayat to the persons who had lost their job on the abolition. Likewise these petitioners who had also lost their respective jobs as village karnams were appointed temporarily on a consolidated pay of Rs. 400/- per month. Apart from the pay of Rs. 400/- none of other rights that are available to other Government servants are available to them. They are liable to be terminated without any prior intimation. As village karnam they used to write documents and earn income to supplement their meagre salary. Even after the abolition, they obtained licence from the Government and functioned as document writers and copy writers. According to them, the 1st respondent amended the Registration Act 1907 and inserted a new provision viz., Section 89B in and by which the State Government were authorised to provide the rules regarding grant of licence to document writers and also fix the terms and conditions and also the circumstances under which their licence may be revoked and on the basis of the Section 89B Tamil Nadu Government framed Rules known as the Tamil Nadu Document Writers Licence Rules, 1982. The said amendment was made by Tamil Nadu Act 26/81 in GO. Ms. No. 397 (Commercial Taxes and Religious Endowment Department) dated 12.4.1982. The aforesaid licence rules prescribed the persons by whom document shall be written and also gives the eligibility for the grant of licence. Rule 5 of the Licence Rules also provide for disqualifications for the issue of licence under the Rules and Rule 13 of the Licence Rules provides renewal of the licence by the District Registrar and Rule 16 of the Licence Rules gives the power of suspension and cancellation of licences to the District Registrar and other licensing authorities. Further according to them none of the rules provide that licensee should not be a part-time clerk on consolidated pay. While so, the 2nd respondent has issued directions in Memo No. 85842/13/90 dated 30.9.92 to the effect that the licenced

document writers should not engage themselves as part-time clerks and that such person who are working as part-time clerks should surrender their licences and on the basis of the said order of the 2nd respondent, the respondents 3 and 4 herein have issued further direction on 21.10.92 to the effect that proceedings will be initiated for cancelling the licences in respect of the persons who are working as part-time clerks. Being thus aggrieved by the orders of the 2nd respondent dated 30.9.92 which was notified recently in all the sub registrars office and having no other effective or efficacious alternative remedy they have preferred the above writ petition to quash the order made by the 2nd respondent herein and further to forbear the respondent from preventing the petitioners from functioning as a licensed document writers on the ground that they are part time clerks.

5. The impugned proceedings of the 2nd respondent is challenged by the petitioners herein on the grounds, that the same is illegal and without jurisdiction and is not authorised by the licence rules. According to them Rule 16(3) of the licence Rules reads thus:

(3) The licencing Authority shall have the powers to revoke or cancel the licence of a document writer for misconduct or unsatisfactory work or for any disqualification prescribed in rule 5, or for breach of any of the conditions of the licence, after giving him an opportunity to show cause against the action proposed to be taken against him.

Therefore it is contended by the petitioners herein that this rule would clearly disclose that the 2nd respondent has absolutely no authority to pass the impugned order directing that persons who are working as part-time clerks should not be continued as licensed document writers. Further it is also contended by the petitioners herein that the impugned order, if given effect to would give rise to civil consequences and therefore the second respondent ought to have given an opportunity to the petitioners and ought not to have taken an unilateral action without hearing the petitioner's; grievances. Therefore they contend that the impugned order suffers the vice of arbitration and also violates the principles of natural justice. It is also their case that the impugned order is not only arbitrary but also is violative of Articles 14 and 19(1)(g) of the Constitution of India, that the second respondent cannot take away the rights of the petitioners by an unilateral action which is not authorised by law especially when the licence rules do not provide for such a drastic action and which has clearly set out the conditions under which the licence can be cancelled and what the Rules do not provide the second respondent by an executive fiat cannot take away. It is also their grievance that if the impugned order is implemented the petitioners would suffer serious prejudice, irreparable loss and hardship, that having lost their job as village karnam with great difficulty they have been able to get postings as part-time clerks and that too on a consolidated pay of Rs. 400/- With this very meagre amount the petitioners are struggling for their existence and in this state of affairs if the impugned order is given effect to, it

would further have a demoralising effect that there is every likelihood that their very survival would be endangered. Further according to them, all their licenses have to be renewed from 1.1.93 for a further period and there is every likelihood that the respondents would not renew their licences on the basis of the impugned order.

6. Having seen the entire material available on record and from the facts and circumstances of this case and also from the claims and counter claims made by the parties herein, the following are the admitted facts. The petitioners herein are all licenced document writers and they have got licence from the 3rd respondent herein. They were also Ex. Village karnams and lost their job due to the abolition of the said post by the Government. Thereafter they were appointed as village karnams temporarily on a consolidated pay of Rs. 400/- per month and apart from the said pay of Rs. 400/-none of the other rights that are available to other Government servants are not available to them and they are also liable to be terminated without any prior intimation. To supplement their meagre salary they obtained licence from the Government and functioned as document writers and copy writers. That being so, the 1st respondent amended the Registration Act and inserted a new provision viz. Section 89-B in and by which the State Government were authorised to provide for rules regarding grant of licence to document Writers and also to fix the terms and conditions and also the circumstances under which their licence may be revoked and on the basis of the Sec. 89-B Tamil Nadu Government framed rules known as the Tamil Nadu Document Writers Licence Rules, 1982. The aforesaid licence rules prescribed the persons by whom documents shall be written and also gives the eligibility for the grant of license. That being so it is the case of the petitioners that none of the rules provide that licensee should not be a part-time clerk on consolidated pay. But it is the grievance of the petitioners herein that however the 2nd respondent has issued directions in Memo No. 85842/13/90 dated 30.9.92 to the effect that the licensed document writers should not engage themselves as part-time clerks and that such persons who are working as part-time clerks should surrender their licences and on the basis of the said order of the 2nd respondent, the respondents 3 and 4 herein have issued further direction on 21.10.92 to the effect that proceedings will be initiated for cancelling the licences in respect of the persons who are working as part-time clerks. In the above facts and circumstances of this case, it is clear that the 1st respondent has amended the Registration Act and inserted a new provision viz., Section 89-B in and by which the State Government were authorised to provide for rules regarding grant of license to document writers and also to fix the terms and conditions and also the circumstances under which their licence may be revoked. Thus the respondent have rights to prescribe terms and conditions for the document writers. This cannot be questioned by the petitioners herein. Further it is very clear from the records that the Government feels that as the part time clerks are being engaged in writing documents, they are unable to concentrate, on their job and in order to give some relief to the unemployed educated youths they wanted that licence to

the part-time clerks like the petitioners herein can be withdrawn. It may be true that the petitioners may get meagre income only from their part-time clerk job and that is why to supplement such lower income they have got licence for writing documents and that cannot be disturbed by the respondents by the impugned proceedings. But it is significant to see that the Government has amended the Registration Act and equipped itself with the power to provide for rules regarding grant of license to Document writers and also to fix the terms and conditions. Further they have come to such a conclusion in order to provide that opportunity to the educated unemployed youths and also because of the fact that the part time clerks who have got licence to write documents unable to concentrate on their job. That being so, that is a policy of the Government and that therefore the same cannot be questioned. Furthermore, the amendment aforementioned also gives ample powers to the Government to do so. Therefore, the proceedings impugned in this writ petition cannot be questioned or challenged by the petitioners herein since the respondents have every power to do so in the larger interest of the public. Therefore I do not see any merit whatsoever in the various grounds raised by the petitioners herein challenging the proceedings impugned herein.

7. Therefore for all aforesaid reasons and in the facts and circumstances of this case and also in view of my above discussion with regard to the various aspects of this case. I am of the clear view that the petitioners herein have failed to make out any case in their favour and that therefore there is no need for any interference with the proceedings impugned in this writ petition. Thus the writ petition fails and the same is liable to be dismissed for want of merits. In the result, the writ petition is dismissed. No costs. Consequently WMP. No. 29316/92 also is dismissed.