

(1964) 05 P&H CK 0042
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 2238 of 1963

Messrs. Hukam Chand Jai Dayal and Others	APPELLANT
Vs	
The Punjab State and Others	RESPONDENT

Date of Decision : 25-05-1964

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1964) 05 P&H CK 0042

Hon'ble Judges : P.D. Sharma, J; Mehar Singh, J

Bench : Division Bench

Advocate : M.S. Jain, for the Appellant; L.D. Kaushal and R.P. Bhasin for Respondent No. 1 and Messrs, N.S. Keer and D.S. Keer, for the Respondent

Final Decision : Dismissed

Judgement

P.D. Sharma, J.—This writ petition under Articles 226 and 227 of the Constitution of India has arisen out of the following circumstances:

2. Messrs Hukam Ghand Jai Dayal petitioners are the licenced dealers under the Punjab Agricultural Produce Markets Act, 1981, (hereinafter referred to as the Act) and carry on their business within the notified area of the Market Committee, Karnal. The Chairman Marketing Committee, Karnal, respondent No. 3, on 15th December, 1962 suspended their licence for violation of rule 31 (10) of the Punjab Agricultural Produce Markets (General) Rules, 1962. Their appeal to the Chairman, State Agricultural Marketing Board, Punjab, respondent No. 2 succeeded because the impugned order had been passed by the Market Committee, Karnal and not the Chairman. Again on 20th July, 1963, respondent No. 3 served the petitioners with a notice to show cause as to why their licence should not be suspended as it was reported that they allowed certain Chhajwalis to take out 5 kilograms of wheat from the grower's stock of wheat on 8th July, 1933, and thereby contravened the provisions of section 30 of the Act and conditions N0s. 1, 2 and 10 of the licence issued to them (annexure A). The petitioners in due course denied the allegations made against them. Respondent

No. 3 without any further enquiry suspended their licence on 6th August, 1963, for a period of 15 days under proviso to sub-section (2) of section 10 of the Act (annexure C). The petitioners filed an appeal against this order as well which was rejected by respondent No. 2 on 31st August, 1963 (annexure D). During the pendency of this appeal respondent No. 2 also served a notice dated 24th August, 1963, on the petitioners to explain as to why their licence should not be suspended for a period of two months because they were habitual defaulters (annexure E). The petitioners gave their reply to this notice on 29th August, 1963 (annexure F) No final orders has been passed by respondent No. 2 in this matter.

3. The petitioners prayed that the order of respondent No. 3 dated 6th August, 1963, suspending their licence for 15 days (annexure C), order dated 31st, August, 1963, of respondent No. 2, dismissing their appeal (annexure D) and notice dated 24th August, 1963, issued by respondent No. 2 (annexure E) should be quashed, on the grounds, that respondent No. 3 passed the order dated 6th August, 1963, without affording then any opportunity to explain their conduct, that respondent No. 2 dismissed their appeal against the order without hearing them, and that the powers conferred on respondents Nos. 2 and 3 for suspending the licences of dealers were arbitrary and unbridled. They further urged that the provisions of section 10 (2) of the Act imposed an un-reasonable restriction on their right to carry on their occupation, trade or business guaranteed by Article 19(1)(g) of the Constitution but this plea was not pressed at the time of the arguments obviously for the reason that the restrictions placed were reasonable and in the interest of the general public.

4. The respondents in their written statements maintained that the period of 15 days for which the petitioners' licence was suspended by respondent No. 3 by his order dated 6th August, 1963, had expired and that respondent No. 2 had only issued a notice to the petitioners to show cause as to why their licence should not be suspended for two months and not that any final order had been passed by him in that connection and as such the petitioners could not be given any relief in the present proceedings. They also submitted that the petitioners at no stage informed respondent No. 3 before his passing of the order dated 6th August, 1963, that they would produce evidence in support of their defence and so they could not now be heard to say that the order was passed without giving them an opportunity to substantiate their pleas. Similarly it was pleaded that the petitioners did not inform respondent No. 2 before he dismissed their appeal on 31st August, 1963, that they would like to be heard in person and in the circumstances he could dispose of the appeal in their absence under sub-rule (4) of rule 40 of the Punjab Agricultural Produce Markets (General) Rules, 1962. This sub-rule provides that the appeal shall be decided after notice to and hearing the parties concerned, if they so desire, and after making such further enquiry as the appellate authority may consider necessary. They went on to say that sub-section (2) of section 10 of the Act was comprehensive enough and the powers given to them for suspending the licences of the dealers were not arbitrary and

unbridled.

5. There is no doubt that the period of 15 days for which respondent No. 3 by his order dated 6th August, 1933 suspended the petitioners' licence has expired. It is equally true that respondent No. 2 has simply served a notice on the petitioners to show cause as to why their licence should not be suspended for two months and he has not taken any final decision in the matter. Further a careful perusal of sub-section (2) of section 10 of the Act will show that the Chairman of the Board and Chairman of a Committee of the area concerned are competent to suspend a licence when there has been a breach of any of the conditions specified in the licence. The conditions on which the licences are granted are given in annexure B furnished by the petitioners. Therefore, it cannot be legitimately argued that powers of the Chairman of the Board and the Chairman of a Committee of the area concerned for suspending a licence are arbitrary or unbridled. The Legislature have amply clarified in sub-section (2) of section 10 of the Act the condition under which the Chairman can suspend licences of the dealers. For this and the above the writ petition in regard to the order dated 6th August, 1933, of respondent No. 3 and order dated 31st August, 1963, of respondent No. 2 has become infructuous. It is premature so far as the issuing of notice dated 24th August, 1933, by respondent No. 2 is concerned.

6. The Civil Writ, consequently, fails and is dismissed with costs.

Mehar Singh, J.

7. I agree.