
(1964) 11 MP CK 0010

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 509 of 1964

Mohammad Ayub Ganibhai

APPELLANT

Vs

State of Madhya Pradesh and Others

RESPONDENT

Date of Decision : 11-11-1964

Acts Referred:

Rice Milling Industry (Regulation) Act, 1958 — Section 7(1)

Citation : AIR 1965 MP 166 : (1967) ILR (MP) 63 : (1965) JLJ 400 : (1965) 10 MPLJ 199 : (1965) MPLJ 199

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

Bench : Division Bench

Advocate : A.P. Sen, for the Appellant; R.I. Bhawe, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

Dixit, C.J.

This IN an application under Article 226 of the Constitution for the issue of a writ of certiorari for quashing an order passed on 10th August 1964 by the Collector, Durg, as the licensing Officer under the Rice Milling Industry (Regulation) Act, 1958, revoking the licence dated 12th January 1962 granted to the petitioner under the Act for carrying on rice-milling operation in his rice-mill.

The order of the Collector has been assailed inter alia on the ground that the show-cause notice, which was issued to the petitioner on 21st April 1964, was invalid inasmuch as it was issued by the Food Officer who had no jurisdiction whatsoever u/s 7 of the Act to revoke the petitioner's licence; and that the notice was neither signed by the Collector, who was the Licensing Officer under the Act, nor authorised by him. When this petition came up before us for consideration of the petitioner's application for the issue of an interim direction for suspending the operation of the order of revocation passed by the Collector, Shri Bhawe, learned Government Advocate for the State, frankly conceded that in

view of the decision of this Court in *Salamatrai v. Collector Raipur* 1964 MPLJ 737 the petitioner's objection that the notice to show cause issued by the Food Officer was invalid and consequently the proceedings initiated against him resulting in the revocation of the licence were altogether illegal and without jurisdiction, was substantial.

In view of this statement of the learned Government Advocate, we decided to dispose of this petition finally on the basis of our decision in 1964 MPLJ 737 (Supra). In that case, it has been held by this Court that-

"The satisfaction of the Licensing Officer as to the matters stated in Clause (a) or (b) of Section 7(1) is essential before the holder of a licence can be called upon to show cause against the action proposed to be taken against him. It is only after the licensee is given an opportunity of showing cause against the charge or charges levelled against him and the action proposed to be taken that his licence can be revoked or suspended or the deposit amount forfeited. The language of Section 7(1) is plain enough to show that if the holder of a licence has committed any of the acts mentioned in Clause (a) or Clause (b) of Section 7(1), then it is for the Licensing Officer to be satisfied that *prima facie* he is guilty and deserves the punishment proposed. The satisfaction of the Food and Civil Supplies Inspector, who is not the Licensing Officer cannot be substituted for the satisfaction of the Licensing Officer.

.. The Licensing Officer is required to draw his own conclusions and satisfy himself on the report placed before him or the facts collected by him whether any action against the holder of a licence should be taken u/s 7(1) after giving the licence-holder an opportunity of showing cause. When the Licensing Officer has satisfied himself that action against the holder of a licence should be taken u/s 7(1) and that a show cause notice should be issued to him, then he may himself issue the notice and sign it or he may authorise any other officer to issue the approved notice on his behalf."

In the present case, the notice which was issued to the petitioner was signed by the Food Officer as "Food Officer for Collector, Durg". It was not disputed on behalf of the State that the Food Officer had issued the show-cause notice to the petitioner on his own authority and that the Licensing Officer had not authorised the Food Officer to issue on his behalf a notice to the petitioner after satisfying himself as to the matters mentioned in Clause (a) or Clause (b) or Section 7(1) of the Act. The present case is, therefore, indistinguishable from *Salamatrai's* case 1964 MPLJ 737 (supra), and for the reasons given in that case the order dated 10th August 1964 of the Collector, Durg, revoking the petitioner's licence must be quashed.

For these reasons, this petition is allowed and the order dated the 10th August 1964 of the Collector, Durg, revoking the petitioner's licence is quashed. The petitioner shall have costs of this application. Counsel's fee is fixed at Rs. 75/-. The outstanding amount of the security deposit shall be refunded to the

petitioner.