
(2022) 06 GAU CK 0009

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 7226 Of 2021

Moinul Huda Laskar And 2 Ors

APPELLANT

Vs

State Of Assam And 4 Ors

RESPONDENT

Date of Decision : 06-06-2022

Acts Referred:

Constitution Of India, 1950 — Article 19(1)(G)

Citation : (2022) 06 GAU CK 0009

Hon'ble Judges : Arun Dev Choudhury, J

Bench : Single Bench

Advocate : R. Sharma, N. Goswami, R. Borpujari

Final Decision : Allowed

Judgement

1. Heard Mr. R. Sharma, learned counsel for the petitioners. Also heard Mr. N. Goswami, learned Government Advocate, Assam representing the State respondents and Mr. R. Borpujari, learned Standing Counsel for the Finance Department.

2. The three petitioners, who are licensed stamp vendor under the Treasury Officer, Hailakandi and under Sub Divisional Officer (Sadar), Hailakandi, had assailed the order dated 03.12.2021, whereby, the Deputy Commissioner, Hailakandi, i.e. the respondent No. 3 had cancelled the licenses issued in favour of the petitioners on the ground that they sold stamp papers over and above the actual price.

3. The case of the petitioners is that the petitioners were issued Vendor Licenses by District Registrar and Additional Deputy Commissioner, Hailakandi for selling stamp paper. The petitioner No. 1 was issued vendor license on 29.11.1997 vide license No. HRC.20/95/202, the petitioner No. 2 was issued Vendor License on 25.09.2008 vide license No. HRC.12/2005/365 and the petitioner No. 3 was issued Vendor License on 09.07.2004 vide license No. HRC.13/99/248.

4. The petitioner further contends that their licenses were duly renewed from

time to time and the same has been renewed lastly for the year 2021-2022.

5. It is the case of the petitioners that after an enquiry conducted by one Assistant Commissioner; licenses of the petitioners had been cancelled on the allegation that the petitioners had sold stamp papers at a higher price than that of the actual price.

6. The petitioners further contend that while cancelling the license, the petitioners were not given any opportunity of hearing, no notice was issued to them and they were also not made aware of the complaint, on the basis of which their licenses had been cancelled.

7. The learned counsel for the petitioners, Mr.R. Sharma contends that the licenses of the petitioners had been cancelled without giving any opportunity of hearing to the petitioner thereby the respondent had taken away the petitioners right to livelihood without following due process of law.

8. Mr. Sharma, learned counsel submits that every state action must be fair and fairness demands that an opportunity to be heard ought to have been given to the petitioners before taking the decision to cancel the licenses of the petitioners that too when such action was taken on the basis some complaint. Principles of natural justice demands that a person should not be condemned unheard, submits Mr. Sharma, learned counsel. Therefore, the impugned action of the State respondents is liable to be struck down and the licenses of the petitioners need to be restored, argues the learned counsel for the petitioners, Mr. R. Sharma.

9. Per Contra, Mr. N. Goswami, learned Government Advocate, for the State respondents submits that the stamp vendors were misleading the public with a false narration that for filing application under "Mission Basundhora", a project lunched by the State, the applications need to be filed in a stamp paper of Rs. 100/- and thus the stamp vendors were misleading the public and were trying to create an artificial scarcity of stamp papers to have undue gain and were selling the stamp papers at a higher rate.

10. It is further contended by Mr. Goswami, learned Government Advocate, relying on paragraph 5 of the affidavit-in-opposition filed by the respondent No. 3, that on receipt of complaint regarding artificial scarcity of stamp papers and selling of stamp papers at higher price above the sale price value, one Smti. Sari L. Lungatu, ACS, was directed to make an enquiry in this regard. The said enquiry officer conducted the enquiry by suddenly visiting the Stamp Vendors vending places and on such enquiry, found that the three petitioners were raising the price of stamp papers beyond sale value and on the basis of report such fact finding enquiry, the licenses of the vendor petitioners were cancelled.

11. From the argument, pleadings and materials available on record, it is clear that an enquiry was conducted on the basis of certain complaint that some stamp vendors were selling stamp papers above its sale value and the said enquiry was

done suddenly and on the basis of such enquiry, the licenses of the petitioners were cancelled. It is also clear that no notice or opportunity of any hearing was granted to the petitioners before cancellation of their license.

12. The order impugned reflects that the license has been cancelled on the ground that the vendors have violated the terms and conditions of the stamp vendors licenses. It is not clear, which license conditions are violated by the petitioners.

13. It is by now well settled that when an action is taken or proposed to be taken against a person, which affects the right of the person and results in adverse civil consequences, such person should be given an opportunity to show cause. This is the fundamental of rule of principles of natural justice.

14. In the case in hand, though licenses were cancelled on the allegation of certain complaints, the petitioners were not made aware of such complaint, no information/notice of such allegation were given to the petitioners asking them to put forward their position in relation to such allegation.

15. Cancellation of license has taken away the petitioners right under Article 19(1) (G) of the Constitution of India, without adherence to due process of law i.e. without giving them any minimum opportunity of hearing, resulting in adverse civil consequences. Therefore, in the considered opinion of this Court, the action of cancellation of license of the petitioners by way of the impugned order dated 03.12.2021 is violative of principles of natural justice and therefore, the same is set aside and quashed. And the lisences of the petitioners are directed to be restored forthwith.

16. However, it is made clear that this order shall not preclude the respondent State to take action against the petitioners including cancellation of stamp vendor license by giving an opportunity of hearing to the petitioners and as per law, if the State so desire.

17. With the aforesaid decision and observation, this writ petition is allowed. The parties to bear their own cost.