
(1951) 11 MAD CK 0047
In the Madras High Court
Case No : Writ Petition No. 581 of 1951

N. Balaraman

APPELLANT

Vs

Corporation of Madras

RESPONDENT

Date of Decision : 30-11-1951

Acts Referred:

Constitution of India, 1950 — Article 226

Madras City Municipal Corporation Act, 1919 — Section 287, 365, 366

Citation : AIR 1952 Mad 778 : (1952) 65 LW 467 : (1952) 1 MLJ 655

Hon'ble Judges : Subba Rao, J

Bench : Single Bench

Advocate : Raman of Raman and Raghavan, for the Appellant; T. Ramaprasad Rao, for John and Row, for the Respondent

Final Decision : Allowed

Judgement

Subba Rao, J.—This application is for issuing a writ of certiorari to quash the order of the Corporation of Madras. The petitioner is the proprietor of the firewood depot situated at No. 69 Guruvappa Chetty Street, Chintadripet, Madras. On 2-2-1951, the Commissioner of the Corporation refused to issue a license on the following grounds : (1) there is no space for loading and unloading inside the firewood depot; (2) the splitting is done on the road margin; and (3) there is no open space 20 feet all round in order to reduce fire risk. The petitioner appealed against that order to the Standing Committee (Health). The Standing Committee set aside the order of the Commissioner and directed the issue of the license. The Commissioner referred the matter to the council and the council passed a resolution on 11-9-1951 setting aside the sale (said?) order of the Standing Committee and restoring that of the Commissioner.

The petitioner filed this application for setting aside that order on the ground that the order was arbitrary and also contrary to the principles of natural justice. The relevant sections of the Madras City Municipal Act are as follows :

"Section 287(1) : No place within the limits of the City shall be used for any of

the purposes mentioned in schedule VI without a license obtained from the Commissioner and except in accordance with the conditions specified therein."

One of the items of schedule VI is firewood selling or storing.

"Section 365(3): Every order of the Commissioner or other municipal authority refusing, suspending, cancelling or modifying a license or permission shall be in writing and shall state the grounds on which it proceeds. Section 366(1) An appeal shall lie to the Standing Committee from... (d) any refusal by the Commissioner to grant a licence under Sections 282, 287, 295, 299 and 304(2). Section 366(2): If on any such appeal, the Standing Committee reverses or substantially modifies any action taken or proposed to be taken by the Commissioner or any order passed by him, he may, within one month of the date of such decision, refer the matter to the council, and pending the decision of the council on such reference, the Commissioner shall not be bound to give effect to the decision of the Standing Committee."

2. It is clear from the aforesaid provisions that issuing an order or refusing to issue a license is of quasi-judicial nature and the Commissioner will have to comply with the provisions of the Act and also shall give reasons for his refusal. Against the order of refusal, a statutory right of appeal is given to the Standing Committee. If the order of the Standing Committee is against the view expressed by the Commissioner he can refer the matter to the Council whose order will be final.

In this case, it is not disputed that the Council set aside the order of the Standing Committee without giving an opportunity to the petitioner to put forward his case.

3. When a tribunal is entrusted with quasi-judicial functions affecting the rights of parties, it is the elementary principle that the said tribunal should give an opportunity to the person affected to put forward his case. Any decision made by such a tribunal without giving that opportunity is contrary to the principles of natural justice and is liable to be set aside. But the procedure which a tribunal is to follow depends upon the functions, the character and the administrative convenience of the tribunal. It is not possible to equate the council to a court of law, and insist upon that tribunal to follow and adopt the rules of judicial procedure adopted and followed by courts. It is hoped that the Corporation will evolve a procedure which will give a reasonable opportunity to a party affected to put forward his case. The order of the Corporation of Madras is hereby quashed and they are directed to dispose of the reference in accordance with law. In this view, the other question does not arise for consideration. In the circumstances, the parties will bear their own costs.