

(1995) 03 AHC CK 0056

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 40586 of 1994

Pashu Shav Chhedan Awdhogik Utpadan Sahkari Samiti
Ltd., Moradabad

APPELLANT

Vs

Charma Vikas Adhikari and Others

RESPONDENT

Date of Decision : 08-03-1995

Acts Referred:

Citation : (1995) 03 AHC CK 0056

Hon'ble Judges : R.A.Sharma, J and M.C.Agarwal, J

Final Decision : Dismissed

Judgement

R. A. Sharraa, J.—Petitioner has filed this writ petition for writ of mandamus directing the respondents not to register any other Cooperative Society for the purpose of granting licence for collection of hides and bones of dead animals for Block Thakurdwara district Moradabad. The contention of the learned counsel for the petitioner is that in view of the letter, dated 1531991 issued by the Assistant Registrar U.P., Gram Udyog Board, Lucknow (Annexure 4 to the writ petition) there can be only one Cooperative Society for the purpose of collecting hides and bones of the dead animals in a Block. This contention is devoid of merit.

2. A Cooperative Society is registered under the U. P. Cooperative Societies Act and Rules framed thereunder (hereinafter referred to as the Act and the Rules respectively). Every Society, which satisfies statutory norms laid down in the Act and the Rules is entitled to be registered. The Act and the Rules do not confer any right on a Society to oppose the registration of its rival in trade. Unless law confers such a right on a person he cannot challenge the registration or licence of other Society. In this connection reference may be to J. M. Desai v. Roshan Kumar, AIR 1976 SC 578, in which it is laid down as under :

"Did the appellants have a legal right under the statutory provisions or under the general law which has been rejected to or threatened with injury ? The answer in the circumstances of the case must necessarily be in the negative.

* * * *

In the light of the above discussion, it is demonstrably clear that the appellant has not been denied or deprived of legal right. He has not sustained injury to any legally protected interest. In fact, the impugned order does not operate as a decision against him, much less does it wrongfully affect his title to something. He has not been rejected to a legal wrong. He has suffered no legal grievance. He has no legal page for a justifiable claim to hang on. Therefore, he is not a "person aggrieved" and has no *locu standi* to challenge the grant of "No Objection Certificate".

In the case of *Rice and Flow Mills v. N. T. Gowda*, AIR 1971 SC 241 same principle was reiterated. Again in *Mithilesh Garg v. Union of India*, AIR 1992 SC 443 it has been declared that an existing operator has no *locus standi* to challenge the grant of new permit on a route under the new Motor Vehicles Act, 1988. Following the above decisions a Division Bench of this Court *Om Saran v. S. D. M. Chandausi*, 1995 (1) Local Bodies and Educational . Service Reporter 105, has reiterated the same principles. In *Shyam Bihari Tewari v. State of V. P.*, 1994 (23) ALR 520 a Division Bench of this Court, while dismissing the writ petition filed by the owner of a cinema house challenging the grantinaid to a new cinema house, has laid down as under : "Article 19 (I) (g) of the Constitution or any other provision of law does not guarantee protection from competition to the petitioners. The loss of income on account of competition does not result in injury to the legal right of the business man. In this connection Supreme Court has laid down in the case of *J. M. Desai v. Roshan Kumar* (supra) as under :

"Thus in substance, the appellants" stand is that the setting up of a rival cinema house in the town will adversely affect his monopolistic commercial interest causing pecuniary harm and loss of business from competition. Such harm or loss is not wrongful in the eye of law, because he does not result in injury to a legal right or a legally protected interest to the business competition causing it being a lawful activity. Jurisdictionally harm of this description is called *damnum sine injuria*, the term *injuria* being herein used in its true sense of an act contrary to law. The reason why the law suffers a person knowingly to inflict harm of this description on another, without holding him accountable for it, is that such harm done to an individual is a gain to a society at large.

Petitioners as such is not entitled to oppose the registration of a rival Society.

3. That apart, letter dated 1831991 (Annexure 4 to the writ petition) is of the Assistant Registrar, Cooperative Societies and is not a Government Order. Although it refers to some policy, but particulars about it have not been given. From perusal of the Government Order, dated 931992 it is apparent that the Government has issued an order, dated 7/9121991 requiring registration of more than one Society in the area and settlement of right licence for collection of hides and bones of dead animals in favour of the Society which has given the highest bid. In the said Government Order, dated 931992 it has further been clarified

that if there is only one Society which has been registered the contract will be given to it. Subsequently another Government Order, dated 381992 was issued in which it has been stated that in a Block as far as possible three Cooperative Societies of the people of traditional occupation for collection of hides and bones of dead animals should be formed and if there is no Society in the Block of settlement has to be made by means of auction. In view of the Government Orders referred to above, the letter dated 1831991 of the Assistant Registrar cannot stand, and no benefit can be derived by the petitioner from it.

4. Before parting with the case it may be observed that contract/ licence for collection of hides and bones of dead animals can be given only to those Societies which have been formed by people of traditional occupation and before registering the Society for said purpose it is the duty of the registering authority to see that such a society has been formed by those persons who were traditionally engaged in this profession. It is also the duty of the concerned authority to be satisfied about it before granting a contract to such a Society. This has been highlighted by Government in its letter, dated 2821995.

This writ petition lacks merit and is accordingly dismissed.