
(1978) 03 GAU CK 0009
In the Gauhati High Court

Prafulla Chandra Saikia

APPELLANT

Vs

The State of Assam and Others

RESPONDENT

Date of Decision : 28-03-1978

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1979 Guw 16

Hon'ble Judges : K. Lahiri, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K. Lahiri, J.—This is an application under Article 226 of the Constitution of India praying for issuance of a writ in the nature of certiorari directed against an order dated 23-8-77 in Excise Appeal No, 1 of 1977 rendered by the respondent No. 1 directing resettlement of Seleng Country Spirit Shop No. 8 (hereinafter to be referred to as "the shop").

2. The relevant facts necessary for the purpose of this Rule may be set out as follows:

Tenders were invited for settlement of the shop for two years commencing from 1-4-77. The petitioner and others submitted tenders along with the requisite documents. The Deputy Commissioner, Jorhat, after due compliance with all the provisions of law settled the shop in favour of the respondent No. 3, under M/s. United Jorhat Entrepreneurs. Nobody excepting the petitioner was aggrieved by the order of settlement. The petitioner preferred an appeal u/s 9 of the Assam Excise Act, 1910 questioning the validity and correctness of the order of settlement passed, in favour of the respondent No. 3. The Appellate Authority having heard the parties upheld the contention of the petitioner and held that the order of settlement issued in favour of the respondent No. 3, an unregistered firm, was violative of Rule 231 of the Assam Excise Rules, 1945 (for brevity hereinafter referred to as "the Rules"). Notwithstanding the fact that the

petitioner had claimed before the Appellate Authority for getting the settlement of the shop, it did not consider the claim of the petitioner and directed resettlement of the shop in question.

3. The sole point that has been canvassed before us by Mr. A. Sarma, the learned Counsel appearing on behalf of the petitioner is that the Appellate Authority has failed to exercise jurisdiction vested in it by law in not hearing and disposing of the appeal fully and finally. According to the counsel it was the bounden duty of the Appellate Authority to consider the case of the petitioner and dispose of the same on merits.

4. Mr. B.M. Goswami, the learned Government Advocate, has tried to support the order of resettlement by referring to provisions contained in Rule 343 of "the Rules".

5. It is inescapable that the impugned order does not contain a single word touching the merits of the case of the petitioner who had claimed for justice before the Appellate Authority, a quasi-Judicial body. We find from the impugned order itself that while considering the disqualification of the respondent No. 3 the Appellate Authority has observed that the petitioner was an experienced lessee having had a long period of lease of liquor shop for about 13 years or so. It shows that the petitioner is an experienced lessee. There is not a single word as to why the Appellate Authority did not consider the case of the petitioner. In our opinion, when a party approaches a quasi-judicial body asking for a relief it is its duty to adjudicate upon the claim and dispose of the same fully and finally. There is nothing in the order to show as to why the Appellate Authority rejected the case of the petitioner. In our opinion, all quasi-judicial acts of a quasi-judicial authority must have some backing of reasons. In the absence thereof it must be held that it has not proceeded in accordance with the essential requirements of the law which it was meant to administer. There is no reason as to why it could not dispose of the merits of the petitioner's case and as to why was it necessary to give a direction for resettlement. A bare and bald order of re-settlement without the backing of any reason can aptly be described as wanton and arbitrary exercise of power not vested in it by law under Rules 339-342 of "the Rules". Suffice it to say that we have already held in Civil Rule No. 370 of 1977, *Pradip Kumar Das v. State of Assam* disposed of on 27-3-1978, to the above effect. We do not find any reason to differ from the view expressed by us in *Pradip Kumar Das* (supra).

6. In the result, we set aside the impugned order of resettlement, remand the appeal to the Appellate Authority for due consideration of the case of the petitioner and make the Rule absolute. In our opinion, it shall be the duty of the Appellate Authority to consider the merits of the petitioner's case, the questions already dealt with by it need not be dilated upon or permitted to be re-agitated before it. We have set aside the order contained in the ultimate para of the impugned order. In fitness of things, it is expected that the Appellate Authority shall despatch the appeal within a month from the date of receipt of the records.

7. In the result, the application is allowed. Parties to bear their respective costs.

D. Pathak, J.

I agree.