
(1968) 12 P&H CK 0026
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1720 of 1968

Ram Dayal

APPELLANT

Vs

Registrar of Registration, Patiala

RESPONDENT

Date of Decision : 17-12-1968

Acts Referred:

Registration Act, 1908 — Section 69(I)(bb)

Citation : (1970) 1 ILR (P&H) 657

Hon'ble Judges : H.R. Sodhi, J

Bench : Single Bench

Advocate : Rajinder Sachar, for the Appellant; D.N. Rampal, Assistant Advocate-General Punjab, for the Respondent

Final Decision : Allowed

Judgement

H.R. Sodhi, J.

The petitioner has alleged that he is a resident of Sirhind City and started working as a document writer in village Harlarpur, Tehsil Sirhind, District Patiala, sometime in the year 1954. The case as further laid in the writ petition is that after working in village Harlarpur for four years, he shifted to Sirhind and continued in his profession of a Document Writer. The Inspector-General of Registration, Punjab, in exercise of the powers conferred on him by clause (bb) of sub-section (I) of section 69 of the Indian Registration Act, 1908 (Act XVI of 1908), framed the Punjab Document Writers Licensing Rules, 1961 (hereinafter called the Rules). The Rules came into force with effect from 5th January, 1962. Rule 4 lays down the condition of eligibility for license to practice the profession of a document-writer. It is in the following terms:

4. Eligibility for license.-No person shall be eligible for being licensed as a document-writer or, if licensed, to continue as a document-writer, if such person-

(a) is less than 18 years of age; or

- (b) is in the employment of Government or Local Authority or any other person; or
- (c) is of unsound mind; or
- (d) is an undercharged insolvent; or
- (e) has been dismissed from the service of Government or any Local Authority; or
- (f) has been convicted of any offence involving moral turpitude.

There is then Rule 5 according to which certain academic qualifications are necessary for getting a license but clause (a) of this Rule makes exception in the case of a person who has been practicing as a document-writer for seven years or more on the date of enforcement of the Rules. The relevant Rule 5 may here be quoted in extenso:

5. Academic qualifications for obtaining license.-No person shall be licensed under these rules unless he has passed Matriculation or Higher Secondary Examination or any other examination of an equivalent standard and has qualified in the special examination held under rule 6

Provided that-

- (a) the provisions of this rule shall not apply to a person who has been practicing as a document-writer for seven years or more on the date of enforcement of these rules;
- (b) the Licensing Authority may, in deserving cases of candidates belonging to any backward class or scheduled caste or scheduled tribe, relax the minimum educational qualification prescribed above and allow any such candidate who has passed the Middle School Examination to sit in the special examination referred to in this rule.

Under Rule 11 (4) a person who has been practicing as document-writer for seven years or more on the date of enforcement of the Rules was required to apply to the Licensing Authority for the issue of a license and if the said authority was so satisfied the license could be issued after the applicant had deposited a fee of Rs. 20/-. It is not disputed before me and could not indeed be disputed in view of documentary evidence on the record that the petitioner made an application for the grant of the necessary license under the Rules on the basis of his being eligible for the same on account of his having been working as a document-writer for a period of seven years or more. The petitioner after he made the application was called upon by the Registrar to appear before him in order to satisfy the latter that the petitioner had been in the profession for more than seven years. A license was accordingly issued to the petitioner on 13th August, 1965, which, as conceded before me by both the learned counsel, was for one year.

2. It is also a common ground before me that this license was renewed for the

years 1966 and 1967. After the renewal for the year 1967, a communication, copy whereof has been filed as Annexure A-3 with the writ petition, was received by the petitioner informing him that there was an allegation that he had obtained the license in the year 1965 on misrepresentation of facts to the Registrar inasmuch as he had not completed seven years in the profession which could make him eligible for the license, The petitioner was further called upon to bring the necessary documentary evidence to rebut the allegation against him. He was also required to send a reply which was to reach the office of the Registrar within fifteen days. The petitioner submitted his explanation on 27th March, 1967 copy whereof has been appended as Annexure A-4 with the writ petition. The petitioner reiterated that he had been practicing for more than seven years and that the Registrar was satisfied with the Proof furnished by the petitioner before the license was issued. No further enquiry seems to have been held after the receipt of the explanation and the Registrar by the impugned order dated 24th April, 1968 copy whereof is Annexure A-5, cancelled the license of the petitioner by holding that the latter was not eligible for the grant of a license according to Rule 5 and Rule 11 (4) It is against this order that the present writ petition has been preferred.

3. Mr. Rajinder Sachar, learned counsel for the petitioner challenged the vires of the Rules in the writ petition but has confined his submissions before me only to one aspect of the matter relating to the infringement of the rules of natural justice. It is contended by the learned counsel that whether the function relating to cancellation of the license is quasi judicial or administrative, the Registrar was bound to act in accordance with the well-established norms of natural justice. The contention is that the petitioner was not informed before the impugned order was passed as to what was the source of information on which the Registrar believed that the petitioner did not fulfill the necessary qualification of being in the profession for seven years or more and nor was any enquiry held affording an opportunity to him to rebut the allegations made against him.

4. The return filed by the Registrar is almost evasive and drafted in a manner so as to only admit or deny the allegations without trying to assist this Court by giving proper information. In para 19 of the writ petition, the petitioner specifically alleged that no notice or opportunity had been given to him by the Registrar or any other authority before canceling the license. The reply of the respondent Registrar to this averment is that the allegation is not admitted. At the same time it is asserted that no notice was required to be given in canceling the license. The assertion is that it is only when there is violation of the conditions of the license as enumerated in Rule 14 that a notice is to be sent to the defaulter before taking action.

5. The contention of Mr. Sachar that the principles of natural justice have been violated must be accepted.

6. The profession of a document-writer is as much a profession which a person is entitled to carry on and for which a guarantee is enshrined in Article 19 of the

Constitution of India as any other, subject to reasonable restrictions which any competent authority may impose by way of laying down conditions of eligibility, academic qualifications, etc. No person desiring to carry on a trade or a profession can be left to the whim and caprice of the Licensing Authority which cannot be permitted to exercise unfettered, unguided and uncontrolled power. The administrative authorities must also act in conformity with the principles of natural justice when their orders involve civil consequences for a citizen. A reference in this connection may be made to observations of their Lordships of the Supreme Court in *State of Orissa Vs. Dr. (Miss) Binapani Dei and Others*, . In the instant case, the petitioner was not informed as to what was the information with the Registrar which necessitated reviewing his earlier decision taken in the year 1965, when he felt satisfied that the petitioner was eligible to obtain a license on the ground that he had been in the profession for seven years or more on the date of the enforcement of the Rules. A license was in fact issued and even renewed twice. The petitioner in his explanation positively asserted that he had furnished the necessary proof already and reiterated that he was entitled to the license. No further enquiry seems to have been held and in the impugned order all that is said is as follows:

After enquiries it is revealed that you are not eligible for the grant of a license for Wasiqa Nawis, according to Rule 5 and Rule No. 11(4), Wasiqa Nawisi and Licensing Rules, 1961.

This order is clearly arbitrary and contrary to the basic concept of justice. There is nothing known what impelled the Registrar to reopen the matter and the whole thing seems to have remained in the dark so far as the petitioner is concerned.

7. It is a fundamental rule of natural justice that the petitioner should have been given an opportunity of producing all relevant evidence if his explanation and the earlier proof given in the year 1965 were not found to be satisfactory. No material could be used against the petitioner of which he was not informed. As a matter of fact, the Registrar seems to have been under the impression that no notice was required to be given in view of section 19 of the Central General Clauses Act, 1897, to which a reference has been made in para 19 of his written statement. He probably intended to rely on section 19 of the Punjab General Clauses Act, 1898 (Punjab Act I of 1898), which is in the following terms:

19. Where, by any Punjab Act, a power to issue notifications or make orders, rules or bye-laws is conferred, then that power includes a power exercisable in the like manner and subject to the like sanction and conditions (if any), to add to amend, vary or rescind any notifications, orders, rules or bye-laws so issued or made.

The corresponding section in the Central General Clauses Act is 16 and this Act is of the year 1897. In the return filed by the respondent, the year quoted is 1898" whereas the section referred to is 19 of the Central General Clauses Act. Shorn of all this confusion created in his return by the respondent, the main stand seems

to be that the respondent Registrar who has an authority to issue a license has also an authority to revoke the same. There can be no quarrel with this proposition but both these sections are wholly inapplicable to the situation as the present one. The respondent could revoke the license but subject to the conditions as laid down in the Indian Registration Act, 1908, and the Rules to which a reference has already been made. The Rules authorize the cancellation of a license by the Licensing Authority only on certain conditions. It is needless for the respondent to depend on the provisions of either of the General Clauses Acts. These provisions only enunciate the well-established rule of general law that an authority with power to appoint a person can also suspend or dismiss him but in each case we have to look to the Act or the rules under which an appointment has been made or conditions prescribed for an appointment, suspension or dismissal. These provisions are not intended to abrogate the rules of natural justice when action is sought to be taken affecting the civil rights of a citizen.

8. It must, therefore, be held that the impugned order canceling the license of the petitioner as a document-writer suffers from serious infirmities and errors of law which are quite apparent. No proper opportunity was given to the petitioner before his license was cancelled.

9. In this view of the matter, the impugned order cannot be sustained. The writ petition is, therefore, allowed with costs and the order of the Registrar, Annexure A-5, passed on 24th April, 1968, canceling the license of the petitioner, is quashed. The petitioner can carry on his profession as document-writer subject to the terms and conditions of the license issued to him and subject to the provisions of the relevant rules and the Act. The costs of the petitioner are assessed at Rs. 100/- which will be payable by the respondent.