
(2014) 02 P&H CK 0191

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 13684 of 1992 (O&M)

Ramesh Kumar

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 28-02-2014

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Press and Registration of Books Act, 1867 — Section 4

Citation : (2014) 175 PLR 50

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Advocate : M.R. Midha, Advocate for the Appellant; Anu Pal, A.A.G, Advocate for the Respondent

Final Decision : Allowed

Judgement

Ritu Bahri, J.—The petitioner has approached this Court by way of instant writ petition filed under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari for quashing the impugned order dated 30.09.1992 (P-6) directing the sealing of Daisy Art Press Barnala and further issuance of directions to the respondents not to ask for fresh making of declaration etc u/s 4 of the Press and Registration of Books Act, 1867 (for short "the Act") The petitioner along with Chiman Lal is the keeper of the Press titled "Daisy Art Press" situated in Handiya Bazar, near S.D. Higher Secondary School, Barnala Distt Sagrur.

2. The petitioner and Chiman Lal gave their declaration under Section. 4 of the Act to Sub Divisional Magistrate, Barnala on 16.11.1967 and gave 18 names for selection of title of the press and the same has been forwarded by Sub Divisional Magistrate, Barnala to Supdt. Press Branch of Home Secy, to Govt. Punjab, Chandigarh (P-1).

3. Thereafter, the Sub Divisional Magistrate, Barnala after made an enquiry in this behalf from the State Government, as required u/s 4A of the Act, allowed the petitioner and Chiman Lal to make declaration u/s 4 of the Act in respect of

their press, under the title "Daisy Art Press" and a declaration was also made and subscribed before the Sub Divisional Magistrate, Barnala on 25.05.1968 (P-2).

4. Since then, the petitioner has been making and subscribing the press under the title "Daisy Art Press". Subsequently, vide order dated 16.08.1989, the State Government informed the District Magistrate, Sangrur that the declaration form of the petitioner was incomplete and asked for completing the form "A". But later on the State started insisting that petitioner should file fresh notice u/s 4A of the Act under some fresh title. The petitioner clarified his position to the Superintendent Press Branch Home Department vide letter dated 16.12.1990 (P-4) stating there in that he had been using the title "Daisy Art Press" since 25.05.1968 at Barnala and change of title after such a long period will adversely affect the petitioner financially. The press is in rented building which has been rented in the name of Daisy Arts Press and with the change of name of the press, the petitioner may have to vacate the building. The District Magistrate, Sangrur sent this information to the State vide letter dated 27.05.1991 (P-5). The press was not working illegally and there was no violation of the Act. Vide letter dated 30.09.1992, respondent No. 1 through its Deputy Secy directed the District Magistrate, Sangrur to seal the press "Daily Art Press" of the petitioner and has endorsed a copy to the petitioner (P-6).

5. This impugned order dated 30.09.1992 is under challenge in the present petition. Learned counsel for the petitioner has sought quashing of this order on the ground that the declaration u/s 4 of the Act had been made to District Magistrate and subsequently the petitioner was allowed to run the press under the title Daisy Art Press.

6. On the other hand, learned counsel for the State has argued that even though the declaration made by the petitioner on 29.10.1967 u/s 4 of the Act, had been accepted by the District Magistrate, a complaint was made that the petitioner's firm was printing newspaper by giving a production as Garibi Hatao Press. In case the petitioner wanted to change his name, he shall make a fresh application. Pursuant to this complaint, a letter was written by the State informing the District Magistrate, Sangrur that the declaration form of the petitioner was incomplete and asked for completing the form "A" and the petitioner should to seek fresh title. Further learned State counsel has argued that no document was produced by the petitioner to show that u/s 4A of the Act, sanction was taken from the State Government. The petitioner cannot claim any benefit from P-2 as this declaration had been accepted by the SDM. This declaration (Annexure P-2) does not declares that the sanction had been given by the Government. Moreover, the petitioner made fresh application on Form A on 05.12.1989 (R-IV) proposing 10 names including the name "Daisy Art Press" for allotment of the title. The petitioner's application for allotment of the title was forwarded by respondent No. 2 to respondent No. 1 vide memo dated 12.02.1990 (R-V) for necessary action. However, it was found that the ten names proposed by the petitioner had already been allotted to other presses in the

State. Vide memo dated 28.3.90 (R-VI), 10 more names from the petitioner has been given. The petitioner insisted on regularising of the "Daisy Art Press", which was run by him since 1968. The controversy in the present case is with regard to incorporation of Section 4 and 4A of the Act, which reads as under:-

4. Keeper of the Printing-press to make declaration.- (1) No person shall) within India, keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before the District, Presidency or Sub Divisional Magistrate, within whose local jurisdiction such press may be:

4. Keeper of printing press to make declaration.-

[(1)] No person shall within [India], keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before [the District, Presidency or Sub divisional Magistrate] within whose local jurisdiction such press may be:

I, A.B., declare that I have a press for printing at.-

And this last blank shall be filled up with a true and precise description of the place where such press may be situate.

[(2)] As often as the place where a press is kept is changed, a new declaration shall be necessary:

Provided that where the change is for a period not exceeding sixty days and the place where the press is kept after the change is within the local jurisdiction of the Magistrate referred to in sub-section (1), no new declaration shall be necessary if-

(a) A statement relating to the change is furnished to the said Magistrate within twenty four hours thereof, and

(b) The keeper of the press continues to be the same.

In Section 4, the following sub-sections as re-numbered by Punjab Act-XV of 1952 shall be added, namely;

(3) As often as a press for the printing of books and papers having ceased to function is re-started, a new declaration shall be unless the cessation is due to the non-compliance with an order under sub-section (3) of Section 3 or sub-section (1) of Section 5 of Indian Press (Emergency Powers) Act, 1931, or any other law for the time being in force.

(4) For the purpose of this Act, a printing press shall be deemed to have ceased to function if no books or papers are printed therein for a period of six consecutive months. (Vide Punjab Act XIV of 1942, Section 2 w.e.f. 1st January, 1943), Act XXXI of 1996, section 68 (w.e.f. 1st November, 1996)

After Section 4, add the following:-

4-A Where any declaration is made and subscribed u/s 4 in respect of printing press, the declaration shall not, save in the case of printing press kept by the same person, be so accepted unless the Magistrate is satisfied from an enquiry made in this behalf from the State Government or otherwise that the press purported to be started does not bear a title which is the same, as or similar to that of any other press in existence in the State of Punjab." (Vide Punjab Act XV of 1957), Act XXXI of 1996, Section 88 (w.e.f. 1st November, 1966).

7. As per Section 4 of the Act, a person who keeps in his possession any press for printing has to make declaration before a District Magistrate or the SDM in a prescribed form. The change of press has to be informed as per sub clause 2 by giving a declaration. In sub clause 3, when a press ceases to print and is re-started, a new declaration is necessary.

8. As per the above said sections, the jurisdiction to entertain a declaration u/s 4 and 4A of the Act is with the SDM. It is the District Magistrate who has to satisfy himself after making the enquiry from the State Government or otherwise that the press bears the title and name which is same or similar to that of any other press in the State of Punjab. This enquiry is to be conducted by the Magistrate concerned and as per Section 4A of the Act, the declaration has not to be accepted by the State Government.

9. The stand in the written statement whereby declaration u/s 4 of the Act was accepted by the SDM on 29.10.1967 will not extend any benefit to the petitioner as it was not accepted by the State Government, is liable to be rejected. As per Annexure P-2 after accepting the declaration given by the petitioner, it was sent to Registrar, Punjab and Haryana High Court, Home Secy to Govt. Punjab, S.P. Sangrur and DPRO, Sangrur. The declaration (P-2) is not being disputed by the respondents as it is R-9 in their reply. The petitioner has continued the work after his declaration was accepted 9P-20 since 1967 till the information was sent to him vide memo dated 8.4.74 (P-3) by the Newspaper Madho from Barnala stating the Daisy Art Press was printing the newspaper in the name of Garibi Hatao Press. Pursuant to this memo dated 8.4.74 (P-3), the information was sought from the District Magistrate which he clarified vide letter dated 27.05.1991 (P-5) that the press of the petitioner was running legally and there was no violation of the provisions of the Act. A police report in this connection was also in favour of the petitioner. The petitioner had made declaration on 29.10.1967 before SDM Barnala. Despite the clarification given by the District Magistrate, the impugned order dated 30.09.1992 has been passed by respondent No. 1 directing to seal the press of the petitioner and direction given that he should sent 10 more names for fresh declaration. Apart from Section 4 and 4A of the Act, there is no provision in the said Act which authorise any other office apart from SDM to accept the declaration u/s 4A of the Act. Since declaration (P-2) is not being disputed by the respondents and they have placed R-9 on record, a safe conclusion can be drawn that after the declaration was accepted by the SDM, the petitioner was authorized to run his press under the

title "Daisy Art Press". Thereafter, seeking from the petitioner to file a fresh form-A was uncalled for. The petitioner under the Act was not required to give second application to respondent No. 1 who do not have the authority to accept the declaration submitted u/s 4 of the Act. In view of the above, order dated 30.09.1992 (P-6) is quashed. The writ petition is allowed.