
(2009) 07 AHC CK 0302

In the Allahabad High Court

Case No : Writ Petition No. 6586 (M/B) of 2009

Sita Kant Pandey

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 14-07-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Uttar Pradesh Document Writers Licensing Rules, 1977 — Rule 16(2)

Citation : (2010) 4 AWC 3489

Hon'ble Judges : S.P. Mehrotra, J;Anil Kumar, J

Bench : Division Bench

Final Decision : Allowed

Judgement

S.P. Mehrotra and Anil Kumar, JJ.—With the consent of the learned Counsel for the parties, the writ petition is being disposed of without calling for counter-affidavit on behalf of the respondents.

2. The present writ petition under Article 226 of the Constitution of India has been filed by the petitioner, inter alia, praying for quashing the order dated 19.6.2009 (Annexure-1 to the writ petition) passed by the respondent No. 2 whereby the licence of the petitioner as deed-writer has been cancelled.

3. It is, inter alia, averred in the writ petition that the said order dated 19.6.2009 has been passed without giving any opportunity of hearing to the petitioner.

4. We have heard Sri Rajiv Kumar Tripathi, learned Counsel for the petitioner and the learned standing counsel appearing for the respondents, and perused the record.

5. It is submitted by the learned Counsel for the petitioner that the impugned order dated 19.6.2009 has been passed without giving any opportunity of hearing to the petitioner. It is submitted that in view of the provisions of Sub-rule (2) of Rule 16 of the U.P. Document Writers Licensing Rules, 1977 as amended by the U. P. Document Writers Licensing (Second Amendment) Rules, 1981, no

order cancelling the licence of the petitioner could be passed without giving opportunity of being heard to the petitioner.

6. Sri T. J. S. Makkadh, learned standing counsel has not been able to point out any material on record to show that before passing the order dated 19.6.2009, any opportunity of hearing was given to the petitioner.

7. A perusal of the order dated 19.6.2009 also does not show that any opportunity of being heard was given to the petitioner before passing the said order.

8. Rule 16 of the aforementioned Rules, 1977, as amended by the aforementioned Amendment Rules, 1981 lays down as follows:

16. Cancellation of licence.- (1) The Licensing Authority may at any time suspend or cancel the licence of a document writer on any of the following grounds, namely:

(a) breach of any of these rules or conditions of licence;

(b) failure to attend the registration office for a continuous period exceeding one month without the permission of the Licensing Authority or the Registering Officer;

(c) for being guilty of participation in any illegal transaction or unfair dealings with public servants in the registration department;

(d) for being found negligent or inefficient in his work or dishonest in his dealings with the public;

(e) for being convicted by a Court for an offence involving moral turpitude; and

(f) for any other sufficient cause to be recorded in writing.

(2) No order under Sub-rule (1) shall be passed, unless the document writer has been given an opportunity of being heard in his defence.

9. Sub-rule (2) of the above-quoted rule shows that before cancelling the licence of document writer, opportunity of being heard is required to be given to him.

10. As noted above, in the present case, no opportunity of hearing was given to the petitioner before cancelling his licence as deed-writer by the impugned order dated 19.6.2009. We are, therefore, of the opinion that the said order has been passed in violation of Sub-rule (2) of the above-quoted Rule 16 which incorporates the principle of natural justice, and the said order is liable to be quashed.

11. The writ petition is accordingly allowed. The impugned order dated 19.6.2009 (Annexure-1 to the writ petition) is quashed.

12. However, it will be open to the respondent No. 2 to pass fresh order in the matter in accordance with law after giving opportunity of hearing to the petitioner.