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(1954) 02 AHC CK 0020

In the Allahabad High Court

Case No : Civil Miscellaneous Application No. 33 of 1953

Sm. Raj Rani Sekhri — APPELLANT

Vs

U.P. Govt. and Another — RESPONDENT

Date of Decision : 23-02-1954

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : AIR 1954 All 492 : (1954) 24 AWR 376

Hon'ble Judges : Mukerji, J;Chaturvedi, J

Bench : Division Bench

Advocate : R.B. Lal, for the Appellant; B.N. Roy, for the Respondent

Final Decision : Dismissed

Judgement

Mukerji, J.—This is a petition by Shrimati Rajrani Sekhri under Article 226, Constitution of India praying for a writ in the nature of mandamus directing the opposite parties, viz., the Government of Uttar Fradesh and the District Supply Officer of Luck-now, to withdraw an order made by a letter dated the 25th February, 1953. The petitioner further prays that this Court should issue a direction to the opposite parties to grant to the petitioner a quota for hard and soft coke so that she may be able to carry on the business of a coal depot holder which business she had been carrying on since 1949.

2. The petitioner''s case was that she had been granted "depot holder''s" licence and that as such licensee she had been carrying on the trade of selling coal and making profits out of those sales. She further stated that she was able to get this permit because she had been a refugee who had migrated from Pakistan in August 1947 and further because she had started an institution called "Shri Kamla Nehru Mahila Shilp Shiksha Kendra" at Lucknow for imparting free training to refugee women in tailoring and embroidery. Her assertion further was that the allotment of a "coal depot" holder''s licence was to her, in her personal capacity, and not in any sense connected with the institution viz. Shri Kamla Nehru Mahila Shilp Shiksha Kendra.

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3. On behalf of the opposite parties, the right of the petitioner to make this petition has been challenged. It has been stated on behalf of the opposite parties that the petitioner is not a "coal quota holder", nor was she ever such a coal quota holder. It was pointed out in the counter affidavit filed on behalf of the opposite parties that the petitioner applied for being given a colkutta not in her personal capacity but on behalf of the institution named above. It was pointed out that the allotment which followed the application of the petitioner must, therefore, be deemed to have been an allotment in favour of the institution, and not the petitioner individually.

The order made by the opposite party No. 2, which has been assailed by the petitioner in this petition viz. the order of the 25th February, 1953 which is an order in these terms:

"Under instructions from the Government the Coal/Coke quota of the following institutions and depot holders is cancelled with immediate effect. They will not be allowed any quota in future.

1. Kamla Nehru Mahila Shilp Shiksha Kendra.

2. Head Master, Sanatan Dharma Mission School.

3. Krishan Sahai Srivastava.

4. Amar Nath Nagpal.

From the afore-quoted order it will be clear that the cancellation of the coal quota which was made effective by the above order was not the quota of the applicant but of the Shri Kamla Nehru Mahila Shilp Shiksha Kendra.

4-7. This petition, therefore, raises a question of fast for determination before any other questions of constitutional law could arise, the question of fact that calls for determination being who was the coal quota holder--whether it was the petitioner or it was the institution named Shri Kamla Nehru Mahila Shilp Shiksha Kendra. In our judgment, the materials on the record can lead us to no other conclusion but that it was the institution Shri Kamla Nehru Mahila Shilp Shiksha Kendra that was allotted the coal quota and not the petitioner. (His Lordship after stating the reasons which led him to that conclusion proceeded further to state :)

8. From what we have stated above, we are satisfied that the petitioner was not the holder of the permit or licence but that it was the institution. The petitioner, therefore, has no right to challenge the order which was made by Government cancelling the quota of coal which was being so far allotted to the institution.

9. Learned counsel appearing for the petitioner prayed that we should treat this application as one on behalf of the institution. We do not think it is possible for us to do so.

The petition which is before us does not disclose the necessary facts on which we could say that the petitioner was acting on behalf of and for the benefit of the

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institution. on the other hand, the petition is one asserting the personal rights of the petitioner. THe petitioner has not placed all the materials which should have been placed before the Court. We are constrained to hold that in this case the petitioner has been guilty of suppressing facts which were material for the determination of the rights of the petitioner and all facts necessary for the court to know before it could grant an appropriate relief to the petitioner. We could have thrown out the petition on the ground alone, for it has been held by a Full Bench of this Court in - Asiatic Engineering Co. Vs. Achhru Ram and Others, that where a Court finds that a petitioner suppresses mataril facts, in such a case the petitioner should be refused any relief by the Court, but we did not choose to take that short cut but went into the merits of the case and we have come to the conclusion that on the merits the petitioner has no right to claim the relief which she has by this petition.

10. We accordingly dismiss the petition with costs. We assess the costs of the petition at Rs. 150/-.

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