
(1972) 11 SHI CK 0004

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No"s. 54 and 64 of 1972

Smt. Sandhya Devi

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 09-11-1972

Acts Referred:

Citation : (1973) 2 ILR HP 145

Hon'ble Judges : R.S. Pathak, C.J;C.R. Thakur, J

Bench : Division Bench

Advocate : B.S. Malik, for the Appellant; B. Sita Ram, General, for the Respondent

Final Decision : Allowed

Judgement

R.S. Pathak, C.J.—The Petitioner manufactures and sells bricks. It was granted a licence valid for the year 1971-72 for carrying on that business. On August 19, 1971, the Petitioner was served with a notice alleging certain irregularities in the carrying on of that business. The Petitioner submitted her explanation on August 25, 1971 rebutting the allegations made in the notice. On March 10, 1972, the District Food and Supplies Controller, Dharamsala made an order holding that the explanation was unsatisfactory. In exercise of the powers vested in him under the Himachal Pradesh Bricks (Control) Order, 1970, he ordered the forfeiture of the security of Rs. 500 furnished by the Petitioner and directed that the licence held by her should not be renewed for the year 1972-73 and would expire with the present period of its validity. The Petitioner challenges the validity of that order.

2. The Petitioner has taken a number of grounds assailing the constitutional validity of the Himachal Pradesh Bricks (Control) Act, 1969 and the Himachal Pradesh Bricks (Control) Order, 1970 made thereunder. She has also urged that the order dated March 10, 1972 is invalid on the ground that it does not disclose the reasons for making it.

3. The writ petition was heard along with *Ran Rakha and Co. v. The State of Himachal Pradesh* Civil Writ Petition No. 54 of 1972 decided on November 9, 1972 by the Hon'ble Mr. R.S. Pathak, C.J. and the Hon'ble G.R. Thakur, J., The contentions in respect of the constitutional validity of the impugned Act and the impugned Control Order were the same as in that writ petition. Accordingly, for the reasons set out in the judgment in that case those contentions are rejected in this case also.

4. The further contention that the order dated March 10, 1972 is invalid because it fails to disclose the reasons upon which it has been made may be examined. Clause 4 of the Control Order empowers the District Magistrate to refuse to renew a licence, and Clause 20(iii) empowers him to forfeit the security furnished by a manufacturer or dealer. We have held in the connected writ petition that the power conferred upon the District Magistrate under Clause 4(iii) is quasi judicial in character. We have also pointed out that Clause 4(iii) requires the District Magistrate to record his reasons in writing for refusing to renew a licence. We are also of opinion that an order forfeiting a security under Clause 20(iii) is quasi judicial in character because it deprives a manufacturer or dealer of property belonging to him. He is entitled to a hearing before the security is forfeited and the District Magistrate when making the order of forfeiture must state the reasons for such order. For this view we rely upon what we have said in the connected writ petition when discussing the nature of quasi judicial orders made by Administrative Tribunals. Viewed in this light, it seems to us that the impugned order dated March 10, 1972 is invalid. The order merely sets out the irregularities said to have been discovered by the Inspector, Food and Supplies and then rejects the explanation of the Petitioner as unsatisfactory. There is no finding that the allegations of the Inspector are substantiated by any material. The omission of the Petitioner to give a satisfactory explanation cannot by itself constitute good ground for the impugned order. The order does not even disclose that any notes made by the Inspector were scrutinised by the District Food and Supplies Controller before making the order. The finding that the explanation of the Petitioner is unsatisfactory does not amount to a statement of the reasons for making the order. The reasons could arise only after the District Food and Supplies Controller had examined the allegations made by the Inspector and found them justified. In our opinion, the impugned order cannot be sustained.

5. It is pointed out that an appeal is available to the Petitioner under Clause 21(i) of the Control Order and relief should be denied to her on that ground. It seems to us that the impugned order being bad on the face of it and as the conclusion of the District Food and Supplies Controller that the explanation is unsatisfactory cannot be said to constitute a sufficient statement of reasons which could enable the appellate authority to properly dispose of the appeal, we think this is a case in which we should interfere.

6. The petition is allowed. The order dated March 10, 1972 of the District Food and Supplies Controller, Dharamsala is quashed. In the circumstances of the case

there is no order as to costs.