(2000) 09 AHC CK 0025

In the Allahabad High Court

Case No : C.M.W.P. No. 15518 of 1995

Stamp Venders Association, Varanasi — APPELLANT

Vs

State of U.P. and others — RESPONDENT

Date of Decision : 01-09-2000

Acts Referred:

Constitution of India, 1950 — Article 19(1), 19(6), 21
Uttar Pradesh Stamp Rules, 1942 — Rule 156

Citation : (2000) 4 AWC 2829 : (2000) 3 UPLBEC 2537

Hon'ble Judges : Lakshmi Bihari, J;Binod Kumar Roy, J

Bench : Division Bench

Advocate : B.N. Pathak, for the Appellant; S.C., R.P. Goyal and Smt. Sarita Singh, for the Respondent

Judgement

Binod Kumar Roy and Lakshmi Bihari, JJ.—Whether the proviso added to Rule 156 of U. P. Stamp Rules, 1942 (hereinafter referred to as the Rules] ultra vires Articles 19(1)(g) and 21 of the Constitution of India is the solitary question which requires our adjudication in this writ petition filed by the Stamp Vendors Association, Varanasi, with two prayers (i) to quash the proviso added to Rule 156 aforesaid and (ii) to command the respondents to allow the stamp vendors to sell stamp papers of any denomination available in the Treasury within the limits of their licence.

2. Rule 156 of the Rules before the impugned amendment read as follows :

"Sale of stamps to non-official vendors weekly.--Licensed vendors shall be allowed to purchase stamps from the local or branch depot ordinarily once a week equal to their estimated demand for one week, based on the average sales of the last few weeks. If after a weekly purchase, the sales of any vendor have been heavy and his stock have run short within the week, he shall be allowed to purchase on any other day of the week when the treasury is open, equal to the probable consumption for the remaining part of the week."

2.1. By the impugned amendment at the end of this Rule following proviso has been added :

"Provided that a stamp paper exceeding the value of two thousand rupees shall not be supplied to the licensed vendor."

3. The petitioner asserts, inter alia, that earlier the licensed stamp vendors were allowed to sell stamps not exceeding the aggregate value of Rs. 5.000 for one document, vesting powers in the Collector of the district to raise that limit to any higher limit ; subsequently by the 40th Amendment that limit was raised to Rs. 8,000 conferring jurisdiction in the Board of Revenue to issue a licence in a special circumstance for any higher limit ; non-judicial stamps of 23 denominations ranging between 25 paisa to Rs. 5 lacs were being printed and available but in 1991 under the orders of the Ministry of Finance, Department of Economic Affairs. New Delhi, the number of denominations of non-judicial stamps were reduced to 10 and the remaining 13 denominations, including of Rs. 2 lacs and Rs. 3 lacs, were discon- tinued ; it has also been mentioned in the Circular dated 16.9.1991 that the Government has decided to introduce non-Judicial stamps of Rs. 10,000. Rs. 15,000. Rs. 20,000 and Rs. 25,000 denominations ; there was no restriction on the stamp vendors that they will sell stamp papers of particular denomination only ; in April, 1993, a theft took place during railway transit from Central Stamp Department. Nasik Road to Railway Head in U. P. of Rs. 5,000 denominations non-judicial stamps and in order to avoid abuse of those stolen stamp papers, a ban was imposed for sale of non-judicial stamps of Rs. 5,000 denomination with effect from 18.4.1993 and instructing the District Registrars and the Sub-Registrars not to register any document executed on Rs. 5,000 denomination non-judicial stamps on or after that date ; this ban, however, was relaxed vide order dated 6.10.1994 on this condition that stamp of Rs. 5,000 denomination shall be sold from the Treasury only directly to the purchaser and not through any stamp vendor ; meanwhile the amended Rules were introduced permitting the licensed stamp vendors to sell Court-fee stamps and non-judicial stamps upto an aggregate value of Rs. 15,000 for one document or instrument to an individual member of the public : and that stamp paper exceeding Rs. 2,000 shall not be supplied to the licensed vendors, meaning thereby that the stamp vendors shall sell stamp papers upto Rs. 2,000 denominations only for the reasons of shortage of stamps, sale of forged stamp papers, theft of stamps, sale of stamp by stamp vendors on higher rates and artificial shortage of the stamp papers.

3.1. The petitioner challenges the aforementioned amended Rule on the ground that it has been made without application of mind and without looking into the fact that stamp papers of Rs. 2,000 and Rs. 3.000 denominations have already been discontinued by the Government of India ; that forged stamp papers worth lacs of rupees have been found in the Sub-Treasury, Amethi, itself as per the Enquiry Report of the Collector of District Sultanpur ; that the restrictions Imposed are wholly unreasonable. Illegal and unwarranted ; and that lot of inconveniences are being faced not only by the stamp vendors but also by the general public as Treasury Challan is required to be filled up and submitted in the Treasury upto 1.30 p.m. only for which there is a long queue due to heavy rush at the Treasury.

4. In the counter-affidavit, which has been sworn by the Treasury Officer, Varanasi. It has been stated, infer alia, that judicial stamps of Rs. 3,000 denomination were not discontinued and are available ; that a licensed vendor was allowed to sell court-fee stamps and non-judicial stamps upto an aggregate value of Rs. 15,000 for one document or instrument vide Notification dated 13.6.1994 and only the non-judicial stamps of the value of Rs. 2,000 and 3,000 denominations were discontinued ; that after thoughtful consideration restrictions were imposed in order to avoid misuse and fraudulent use of stamp papers in the interest of the revenue of the State ; that a reasonable restriction can always be imposed in the interest of public revenue ; that the grounds are wholly misconceived, irrelevant and baseless ; and as the writ petition is misconceived it is thus liable to be dismissed with cost.

5. A rejoinder-affidavit has also been filed reiterating the correctness of some of the statements made in the writ petition repeating that the impugned amendment is absolutely illegal, unwarranted and unjustified and thus the writ petition be allowed with cost.

The Submissions :

6. Sri B. N. Pathak, learned counsel appearing on behalf of the petitioner, contended that the stamp vendor''s fundamental right of trade guaranteed under Article 19(1)(g) of the Constitution of India as well as their right to have a meaningful life guaranteed under Article 21 of the Constitution of India stands breached by the amended Rule aforementioned. He, however, did not cite any decision to support his submission.

7. Learned Advocate General Sri R. P. Goyal, assisted by Smt. Sarita Singh standing counsel, on the other hand, contended that apart from the State, the petitioner has come up stating the backdrop justifying the amended Rule and there is no question of breach of their fundamental rights as enshrined in Articles 19(1)(g) and 21 of the Constitution of India for the simple reason that only a partial restriction has been imposed and that, too. In the interest of the Revenue of the State which is a public purpose to prevent squandering the public money/ revenue. No decision was either cited by the learned Advocate General in support of his submission.

Our Findings :

8. Article 19(1) and its sub-clause (g) of the Constitution of India read thus :

"19 (1) All citizens shall have the right" :

x x x x x "(g) to practise any profession, or to carry on any occupation, trade or business"

9. Article 21 of the Constitution of India reads thus :

"21. Protection of life and personal liberty.--No person shall be deprived of his life or personal liberty except according to procedure established by law."

10. Article 19(6) of the Constitution of India reads thus :

"Nothing in sub-clause (g) of the said clause shad affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interest of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing taw in so far as it relates to, or prevent the State from making any law relating to.-

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a Corporation owned or controlled by State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise." (italics is by us)

On a bare perusal of sub-clause (6) aforesaid, it is crystal clear that sub-clause (g) could not have prevented the State from Imposing reasonable restriction while amending Rule 156 of the Stamp Rules in the interest of the general public. It is further clear that for the same purpose, exclusion-partial or complete-or otherwise of citizen is also permissible.

11. Let us now refresh the ratio laid down by the Apex Court of the country while interpreting Article 19(1)(g) vts-a-vis 19(6) of the Constitution.

If one understands correctly the ratio laid down in Fedco (P) Ltd. and Another Vs. S.N. Bilgrami and Others, , prevention of fraud stands comprised within the phraseology expressed in Article 19(6) of the Constitution.

Further, as per The Deputy Assistant Iron and Steel Controller and Another Vs. L. Manickchand, Proprietor, Katrella Metal Corporation, Madras, ; J. Fernandes and Co. Vs. Deputy Chief Controller of Imports and Exports and Others, and Nagendra Nath Bora and Another Vs. The Commissioner of Hills Division and Appeals, Assam and Others, It is clear that the right to sell the stamps is created by grant of a licence under the Indian Stamp Act and the Rules framed by our State under that Act and thus the exercise of the right to sell the stamps is subject to the terms and conditions imposed by the Statute and no fundamental right is infringed by imposition of terms and condition. In State of Orissa v. Radhey Shyam (1995) I SCC 652, it was laid down that business interest of an individual can be overridden by the Government policy in the public interest.

12. In sale of the stamps, public interest is apparently involved. From the facts pleaded by the petitioner, it is clear that the limit of Rs. 5.000 was enhanced to

Rs. 8,000 but now it has been lowered. The amendment made is clearly permissible under Article 19(6) of the Constitution being in the interest of ''general public'' imposing a reasonable restriction while permitting sale of Stamps worth to the extent of Rs. 2.000 only to the Stamp Vendors under the provisions of the Stamp Laws. The licensed stamp vendors have not been deprived from carrying on their trade or business secured under Article 19(1)(g). Only a restriction has been imposed which is not arbitrary. We hold that the amendment was made in order to avoid fraudulent use and avoid misuse of stamp papers in the interest of general public as the income of the revenue of the State is public revenue which is being spent for the interest of the general public. We find the grounds devoid of any substance.

13. The petitioner has failed to demonstrate as to how the right to life of the stamp vendors to have a meaningful life within the scope of Article 21 of the Constitution of India has been breached; it is somewhat surprising to hear that it tends to deprive the stamp vendor''s right to have a meaningful life for the reason that only stamps of high denominations have been restrained to be sold to the licensed stamp vendors. We are of the firm view that the amendment was made in the interest of general public without breaching Article 21 of the Constitution of India either.

14. Accordingly, we dismiss this writ petition, but without cost.

15. The office is directly to hand over a copy of this order within one week to the learned Advocate General for its intimation to the authority concerned.