
(1988) 08 KAR CK 0004
In the Karnataka High Court
Case No : W.P. No. 3803/1986

Venkataswamy Reddy, D.N.

APPELLANT

Vs

Administrator, Kothanur Village Panchayat and Another

RESPONDENT

Date of Decision : 26-08-1988

Acts Referred:

Karnataka Village Panchayat and Local Boards Act, 1959 — Section 55

Citation : (1988) 2 KarLJ 449

Hon'ble Judges : H. G. Balakrishna, J

Judgement

Balakrishna, J.-The petitioner has questioned Annexure-B keeping the licence in suspension pending disposal of objections filed by one K. Venkatasubba Reddy.

The petitioner is the resident of Kothanur Village, Sidlaghatta Taluk, Kolar District. The Government of Karnataka introduced a scheme called "Scheme for providing self employment to educated unemployed youth". The petitioner availed himself of the scheme for the purpose of installing flour mill at Kothanur Village. He obtained a licence from the Secretary, Village Panchayat, Kothanur. The licence was issued on 20-12-1985. After obtaining the licence the petitioner applied for power supply from the Karnataka Electricity Board and the petitioner was making necessary arrangement for the purpose of running them II.

By a letter dated 10-1-1986 vide Annexure-B, the Administrator, Kothanur Village Panchayat, Sidlaghatta Taluk, Kolar District, communicated to the petitioner that the licence issued vide Annexure-A on 20-12-1985 is kept in abeyance pending disposal of objections preferred by one K. Venkatasubba Reddy, against the grant of licence to the petitioner.

In the said communication, the petitioner also was warned that if he runs the mill he shall be responsible for all the costs and consequences.

The petitioner is aggrieved by the action of the 1st respondent and therefore has approached this court for the relief of quashing Annexure-B dated 10-1-1986 passed by respondent 1.

The short point for consideration is whether Annexure-B is legally sustainable.

There is no dispute about the fact that the president of the Village Panchayat, Kothnur, granted and issued licence to the petitioner in response to his application dated 29-10-1985 after a re-resolution was passed by the Panchayat on 20-12-85. fixing the licence fee of Rs. 25/- for grant of licence subject to the conditions stipulated in the licence itself.

It is also not disputed that the Administrator, Kothnur village Panchayat issued an endorsement vide Annexure-B on 10-1-1986 and informed the petitioner that the licence granted to him vide Annexure-A has been kept in abeyance pending disposal of the objections filed by K. Venkatasubba Reddy.

It is no doubt true that the authority which has the power to grant a licence is also invested with the power to revoke the licence. The power to revoke depends upon the question whether any of the conditions stipulated in the body of the licence is violated by the petitioner. In the instant case, conditions have been imposed. It is a well accepted principle that a licence once granted vests a legal right in favour of the grantee and it cannot be suspended, revoked or kept in abeyance unless as stated earlier there is a violation of the condition which entail such a consequence. It is mentioned in the body of the licence that licence is issued subject to the conditions incorporated in it. It is also mentioned that the Panchayat reserves the power to withdraw the licence or suspend the licence or revoke the licence. However this power cannot be exercised arbitrarily once the licence is granted for a fixed period. The licence was granted for the year 1985-86, and the licence fee of Rs. 25/- was tendered and it was accepted by the granting authority.

I have carefully examined the endorsement dated 10-1-1986 vide Annexure-B. But, I am unable to find out whether there is any violation of the conditions of the grant of licence. In Annexure-B, the reason for suspension of the licence is not the violation of any of the conditions of the grant of licence. But on the other hand, it is the pendency of objections filed by villager of Kothnur by name K. Venkatasubba Reddy.

It is evident from the undisputed facts of this case that extraneous consideration has weighed in the mind of the Administrator of Kothnur Village Panchayat in rescinding the licence and the cause is not violation of the conditions of the licence. This is a clear case of jurisdictional error.

For the reasons stated above, it is not possible to sustain the order under Annexure B. There is no material available on record to show that the petitioner was heard before the order of suspension of the licence was issued by the 1st respondent. Here again there is a violation of the principles of natural justice. The impugned order is neither fair nor reasonable.

For the reasons stated above, I pass the following order.

The writ petition is allowed. Annexure-B is quashed and the respondents are

directed not to interfere with the petitioner's activities in installing the flour mill and running the mill at Kothnur Village so long petitioner has not violated any of the conditions of the grant. Unless there is proved violation of the terms of the grant the respondents would not be justified in impeding the working of the mill. Accordingly, this writ petition is disposed of.