

Messrs. Mahabir Prasad Santosh Kumar

Vs

State of U. P. and Others

Civil Appeal No. 457 of 1970

(J. C. Shah, K. S. Hegde JJ)

02.04.1970

JUDGMENT

SHAH, J. -

The appellants held a licence under the U.P. Sugar Dealers' Licensing Order, 1962, to deal in sugar as "wholesale distributors"; they also held a licence under the U.P. Foodgrains Dealers' Licensing Order, 1964. By letter, dated June 5, 1967 the appellants were called upon to explain certain irregularities detected on inspection of their shop by the Assistant Commissioner of Food and Civil Supplies on April 24, 1967. On the following day the appellants were directed to hand over all their stocks of sugar and flour to the Bindki Co-operative Marketing Society. Representations against the order directing the appellants to deliver their stocks made to the District Magistrate, Fatehpur, were not even attended to, and the appellants were obliged to surrender their stocks of sugar and flour. By letter, dated June 28, 1967, the appellants were informed that the District Magistrate, Fatehpur, had cancelled their licences as dealers in sugar and flour. The appellants applied for a copy of the order, but it was not supplied.

2. Against the order of the District Magistrate, the appellants submitted an appeal under Clause 8 of the Sugar Dealers' Licensing Order, 1962, on July 19, 1967. By letter, dated January 11, 1969, the Deputy Secretary to the Government of U.P., Food and Rationing Department, intimated the appellants that their appeal against the cancellation of the licence by the District Magistrate was rejected. The reasons for the order passed by the State Government were also not communicated to the appellants.

3. The appellants then moved a petition in the High Court of Allahabad for a writ quashing the orders of the District Magistrate and the State Government in appeal. The petition was rejected by a Division Bench of the High Court. With special leave, the appellants have appealed to this Court.

4. The proceedings of the authorities exercising power under the Sugar Dealers' Licensing Order, 1962, and the Foodgrains Dealers' Licensing Order, 1964, strike at the very root of the rule of law. The appellants have by a series of official acts which flout the rule of law been deprived of even the semblance of protection they may claim in an administration functioning under a democratic Constitution. A day after the date on which the appellants were called upon to submit their explanation regarding the irregularities alleged to be discovered at the inspection, they were ordered to part with the stocks of sugar and flour in their possession. Objections raised by the appellants before the District Magistrate were never attended to. No attempt is made to disclose the source of the power and the necessity to exercise that power. By the action of the authorities, the appellants were deprived of their right to carry on business in sugar and flour without even an opportunity to

explain the alleged irregularities. Their protests addressed to the District Magistrate were ignored; the District Magistrate cancelled their licences without disclosing any reasons and the State Government rejected the statutory appeal also without recording any reasons. This series of actions and orders passed by the executive authorities require something more than a plea of ignorance of the law on the part of the authorities to explain. The appellants were entitled at least to be told the reasons for cancelling their licences. The District Magistrate intimated the cancellation of the licences by an official communication, giving no reasons, and the results of the appeal to the State Government was communicated by a letter from the Deputy Secretary to the Government of U.P., without disclosing even the identity of the officer who considered the objections and the reasons for rejecting the objections.

5. The case discloses a disturbing state of affairs. The authorities have disclosed by their conduct a reckless disregard of the rights of the appellants. The order passed by the District Magistrate cancelling the licences was quasi-judicial : it could be made only on a consideration of the charges and the explanation given by the District Magistrate had to give some reasons why he held the charges proved, and the explanation un-acceptable. When the matter was carried in appeal, the State Government could at least have acted with some awareness that citizens have rights which must be protected against possible arbitrary action by subordinate officials. The District Magistrate is not made the final authority in cancelling the licence. The appellants had a right to carry on their business, and they held a licence to carry on their business : they could be deprived of their right by an executive order supported by good and adequate reasons. The relevant rules granted a right of appeal to the State Government against that order, and that implied that the aggrieved party must have an opportunity to convince the State Government that the order passed by the District Magistrate was erroneous. That right could be effectively exercised if reasons be recorded by the District Magistrate and supplied to the aggrieved party. If the aggrieved party is not supplied the reasons, the right to appeal is an empty formality.

6. From the materials on the record it cannot be determined as to who considered the appeal addressed to the State Government, and what was considered by the authority exercising power on behalf of the State Government. The practice of the executive authority dismissing statutory appeals against orders which prima facie seriously prejudice the rights of the aggrieved party without giving reasons is a negation of the rule of law. This Court had occasion to protest against this practice in several decisions : see *Madhya Pradesh Industries Ltd. v. Union of India and Others* ((1966) 1 SCR 466 (per Subba Rao, J.)); *Bhagat Raja v. Union of India and Others*((1967 3 SCR 302); *State of Madhya Pradesh and Another v. Seth Narsinghdas Jankidas Mehta* (C.A. No. 621 of 1966, decided on April 29, 1969); *The State of Gujarat v. Patel Raghav Natha and Others* (C.A. No. 723 of 1966, decided on April 21, 1969); and *Prag Das Umar Vaishya v. The Union of India and Others* (C.A. No. 657 of 1965, decided on August 17, 1967). The power of the District Magistrate was quasi-judicial : exercise of the power of the State Government was subject to the supervisory power of the High Court under Article 227 of the Constitution and of the appellant power of this Court under Article 136 of the Constitution. The High Court and this Court would be placed under a great disadvantage if no reasons are given, and the appeal is dismissed without recording and communicating any reasons.

7. Opportunity to a party interested in the dispute to present his case on questions of law as well as fact, ascertainment of facts from materials before the Tribunal after disclosing the materials to the party against whom it is intended to use them, and adjudication by a reasoned judgment upon a finding of the facts in controversy and application of the law to the facts found, are attributes of even a quasi-judicial determination. It must appear not merely that the authority entrusted with

quasi-judicial authority has reached a conclusion on the problem before him : it must appear that he has reached a conclusion which is according to law and just, and for ensuring that end he must record the ultimate mental process leading from the dispute to its solution. Satisfactory decision of a disputed claim may be reached only if it be supported by the most cogent reasons that appeal to the authority. Recording of reasons in support of a decision on a disputed claim by a quasi-judicial authority ensures that the decision is reached according to law and is not the result of caprice, whim or fancy or reached on grounds of policy or expediency. A party to the dispute is ordinarily entitled to know the grounds on which the authority has rejected his claim. If the order is subject to appeal, the necessity to record reasons is greater, for without recorded reasons the appellants have no material on which it may determine whether the facts were properly ascertained, the relevant law was correctly applied and the decision was just.

8. The High Court in rejecting the petition filed by the appellants has observed that the District Magistrate in considering the explanation of the appellants had "considered all the materials" and also that "the State Government in considering the appeal had considered all the materials". We have, however, nothing on the record to show what materials, if any, were considered by the District Magistrate and the State Government. The High Court has also observed that Clause 7 of the Sugar Dealers' Licensing Order does not require "the State Government to pass a reasoned order. All that is required is to give an aggrieved person an opportunity of being heard." We are of the view that the High Court erred in so holding. The appellants have a right not only to have an opportunity to make a representation, but they are entitled to have their representation considered by an authority unconcerned with the dispute and to be given information which would show the decision was reached on the merits and not on considerations of policy or expediency. This is a clear implication of the nature of the jurisdiction exercised by the appellants authority : it is not required to be expressly mentioned in the statute. There is nothing on the record which shows that the representations made by the appellants was even considered. The fact that Clause 7 of the Sugar Dealers' Licensing Order to which the High Court has referred does not "require the State Government to pass a reasoned order" is wholly irrelevant. The nature of the proceeding requires that the State Government must give adequate reasons which disclose that an attempt was made to reach a conclusion according to law and just.

9. Counsel appearing on behalf of the State has not attempted to support the reasons given by the High Court. He merely contended that there are in the files of the Government, orders passed by the District Magistrate and also of the State Government which gave reasons in support of the orders. The orders have, however, not been communicated to the appellants, and were not even produced before the High Court. Obviously we cannot consider those orders, if any, at this stage.

10. The orders passed by the District Magistrate and the State Government cancelling the licences of the appellants are quashed. The State will pay the costs of the appellants in this Court and in the High Court.

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