

Arvind Dattatraya Dhande

Vs

State of Maharashtra & Ors.

(K. Ramaswamy, D.P.Wadhwa JJ)

01.07.1997

ORDER

1. Leave granted.

2. We have heard learned counsel on both sides.

3. It is most unfortunate that the Government demoralises the officers who discharge the duties honestly and diligently and brings to book the persons indulging in black marketing and contrabanding the liquor. This is one of the eloquent case where such a sorry state of affairs has come to light.

4. This appeal by special leave arises from the order of the Maharashtra Administrative Tribunal, Aurangabad Bench, made on December 6, 1996 in O.A. No. 925 of 1995 upholding the order of transfer of the appellant. We directed the learned counsel appearing for the State to produce the record and the material which is made the basis for transfer of the appellant. The sequence to be mentioned hereunder stands testimony to the facts. The transfer is nothing but mala fide and arbitrary action at the behest of the persons interested to target the honest officers who efficiently discharge the duties.

5. On December 28, 1994, the appellant conducted a raid on Mr.Rathod at Dharayan Tal, Erandol Amalner Tal, Amalner. Sample was taken from the Toddy for analysis on the even date; consequently, offences were registered on December 29, 1994, on the basis of the Analyses Report received on August 25, 1995. It revealed that toddy was adulterated. Therein, it was clearly stated that it contained Chloral Hydrate, a very harmful and poisonous substances which could endanger the lives of the consumers. The appellant asked for permission of the competent authorities to prosecute the licensee and also for cancellation of the licence. By his proceedings of even date, i.e., August 25, 1995, permission was granted. As a counter-blast to sincere and legal action taken by the appellant against Mr.Narayana Goud, the toddy contractor, the latter lodged his complaint against the appellant on August 30, 1995 and the Minister for District (designated as Guaradia Minister) repeated the complaint to the Minister for State. Excise on the basis of the contractor's complaint on September 28, 1995. This is lynching point where the officer was alleged to be wanting in duty. It would be obvious that based upon this complaint given by the Gurrdia Minister to the Minister for State Excise, triggered another complaint by one Shewala, President of the Country Liquor Association on October 7, 1995. Pursuant to the permission for cancellation of the licence, licence came to be cancelled on September 24, 1996. On the basis of these complaints, the action appears to have been initiated as per the proceedings dated November 18, 1995. Action was taken against the appellant and ultimately he came to be transferred. It is seen that the officer supposed to review the

performance of the duties of the officers on July 7, 1995, i.e., Deputy Commissioner, Excise had reviewed and stated that from March 25 to May 25, 1995 he collected articles Rs.34,996.00, Rs.1,91,853.00 and Rs.1,80,143.00 in three months. In his commendation he has stated that "after considering the abovesaid particulars, except Mr. A.D.Dhande, Inspector Flying Squad Jalgaon" not a single officer had fulfilled the required quoto." "Please congratulate Mr.Dhande on my behalf for his excellent work and for he has fulfilled his largest." It was signed by S.A. Patil, Deputy Commissioner, Excise.

6. In view of the unimpeachable and eloquent testimony of the performance of the duties, it will be obvious that the transfer is not in public interest but is a case of victimisation of an honest officer at the behest of the aggrieved complainants carrying on the business in liquor and toddy. Under these circumstances, as stated earlier, the transfer of the appellant is nothing but mala fide exercise of the power to demoralise honest officers who would efficiently discharge the duties of a public office.

7. The appeal, is accordingly, allowed. The transfer order of the appellant stands quashed. Order may be communicated to the Chief Secretary to take appropriate action against the persons responsible for it and the action taken may be informs to this Registry.