

# RAJASTHAN HIGH COURT

Ram Dayal Sharma

Vs.

Collector and District Registrar

S.B.C.W.P. No.5231 of 2004

(Narendra Kumar Jain, J.)

09.05.2008

## ORDER

**Narendra Kumar Jain, J.**

1. Heard learned counsel for the parties.
2. The challenge in this writ petition is to the order dated 24th July, 2004 (Annexure-1) passed by the Collector and District Registrar, Karauli, whereby the license No. 6/88, granted to the petitioner for document-writer, has been cancelled.
3. The contention of the learned counsel for the petitioner is that the petitioner was holding a license of document-writer since 1988 and there was no complaint against him for last about more than 16 years. However, his son Anil Kumar Sharma lodged one FIR No. 204/2004 dated 7th April, 2004, at Police Station Hindauncity, against one Bhagwan s/o Shiv Charan, who was working at the residence of Sub-Registrar, Hindauncity. The said person Bhagwan pressurized the Sub-Registrar to take action against the petitioner and, at his instance, a false enquiry-report was prepared by the Sub-Registrar against the petitioner and his license was cancelled. He contended that, after completion of the investigation, a challan was filed against Bhagwan and criminal case is pending against him for trial. He further contended that before cancellation of the license of the petitioner, it was a duty of the Collector and District Registrar to serve a notice and to afford an opportunity of being heard to the petitioner but a bare perusal of the impugned order (Annexure-1) will show that no notice was given to the petitioner before cancellation of the license, therefore, the impugned order has not only been passed with *mala fide* but it is violative of principle of natural justice also, therefore, the same is liable to be quashed. He, therefore, prayed that the writ petition be allowed and the impugned order be quashed.

4. A notice to show cause was given to the respondent by this Court on 5th August, 2004, and, in the meantime, the operation of the order dated 24th July, 2004 was also stayed. In pursuance of the show-cause notice, the respondent filed its reply wherein it was admitted that the petitioner was issued a license No. 6/88 of document-writer and it was renewed from time to time. It was submitted that due to misconduct of the petitioner a written complaint was submitted by one employee of the respondent and, after proper enquiry in the matter by the Tahsildar-cum-Sub-Registrar, it was found that the contents of the complaint were correct and, after considering the complaint as well as the enquiry-report, the license of the petitioner was rightly cancelled. It was also contended that the complaint was sent for enquiry to the Sub-Registrar, who conducted the enquiry in the matter. A written reply was filed by the petitioner and he was heard and thereafter the enquiry-report was given by the Enquiry Officer i.e. the Sub-Registrar, to the Collector, therefore, an opportunity of being heard was given to the petitioner. It was, therefore, contended that there is no merit in the writ petition and the same be dismissed.

5. I have considered the submissions of the learned counsel for the parties and examined the impugned judgment.

6. The petitioner was granted license No. 6/88 of document-writer under Rule 5 of the Rajasthan Registration (Licensing of Document Writers) Rules, 1956 (hereinafter shall be referred to as the 'Rules of 1956'). The said license was renewed from time to time. The license is granted by the District Registrar and the same can also be cancelled by the District Registrar on any of the grounds mentioned in sub-rule (1) of Rule 11 of the Rules of 1956. However, there is a specific provision under sub-rule (2) of Rule 11 that no license shall be cancelled without giving the document-writer a reasonable opportunity of showing cause against the proposed cancellation.

7. Rule 11(2) of the Rules of 1956 is reproduced as under:-

"11. Cancellation of license. - (1) A license issued under Rule 3 may be cancelled by the District Registrar on any of the following grounds :-

(a) To (d).....

(2) No license shall be cancelled without giving the document-writer a reasonable opportunity of showing cause against the proposed cancellation."

8. The above Rule makes it clear that the District Registrar is empowered to cancel a license on any of the grounds mentioned in sub-rule (1) of Rule 11 of the Rules of 1956, but the said provision is subject to sub-rule (2), therefore, a notice or reasonable

opportunity of showing cause to the document-writer is required to be given by the cancelling authority i.e. the District Registrar.

9. The respondent, in its reply, has contended that an enquiry was conducted against the petitioner by the Sub-Registrar i.e. the *Tahsildar* and he gave a notice and opportunity to the petitioner but he has not denied this fact that no notice or reasonable opportunity was afforded to the petitioner by the Collector and District Registrar himself before passing the impugned order. The impugned order dated 24th July, 2004 also makes it clear that there is no reference of giving notice or opportunity by the Collector and District Registrar to the petitioner before cancellation of license, rather it speaks that on the basis of complaint and enquiry-report, the license of the petitioner is cancelled with immediate effect. The giving of notice or affording a reasonable opportunity by the Sub-Registrar i.e. the Enquiry Officer during enquiry of the complaint to the petitioner cannot be said to be sufficient compliance of sub-rule (2) of Rule 11 of the Rules of 1956. The enquiry in the matter of complaint can be conducted by the District Registrar by appointing an enquiry officer but as and when an enquiry report is submitted before him, it becomes a duty of the District Registrar to serve a notice for proposed cancellation of license and afford an opportunity of being heard to the license-holder and only thereafter the license can be cancelled. Even otherwise the principle of natural justice requires that a person should not be condemned unheard. The giving of notice by licensing authority was necessary for cancellation of license. Therefore, the impugned order passed by the Collector and District Registrar is not only violative of principle of natural justice but it has been passed in violation of sub-rule (2) of Rule 11 of the Rules of 1956 also. In these circumstances, the impugned order cannot be allowed to be sustained.

10. In view of the above discussed, the writ petition is allowed. The impugned order dated 24th July, 2004 (Annexure-1) passed by the respondent is quashed and set aside. However, a liberty is granted to the respondent to pass fresh order in the matter in accordance with law after complying with the provisions of sub-rule (2) of Rule 11 of the Rules of 1956.

11. Costs is made easy.

Petition allowed.