

(2008) 04 P&H CK 0063

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Om Parkash

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: April 4, 2008

Citation: (2008) 151 PLR 733 : (2008) 3 RCR(Civil) 548

Hon'ble Judges: Sabina, J; M.M. Kumar, J

Bench: Division Bench

Final Decision: Allowed

Judgement

M.M. Kumar, J.

The petitioner who is document writer at sub Tehsil Longowal, Tehsil and District Sangrur was granted document writing licence No. 1/DWL/89 in the year 1989 under the Punjab Document Writers Licencing Rules, 1961 (for brevity "the Rules") by the Registrar cum Deputy Commissioner, Sangrur. He has been working as Document Writer since then at sub Tehsil Longowal. He also holds the licence of Stamp Vendor under the Punjab Stamp Vendors Licensing Rules, 1934. He is aggrieved by the order dated 12.5.2002 passed by the Registrar cum-Deputy Commissioner, Sangrur (Annexure P.1) cancelling his deed writing licence and order dated 17.9.2007 (Annexure P.7) passed by the Financial Commissioner (Revenue) upholding the order dated 12.5.2002 despite the fact that the Commissioner, Patiala Division, Patiala has reversed the order of the Registrar cum Deputy Commissioner vide his order dated 17.3.2004 (annexure P.6).

2. The petitioner was served with a show cause notice on 26.3.2002 by the Collector cum Addl. Deputy Commissioner, Sangrur alleging that a report dated 7.3.2002 has been sent by the Sub Divisional Magistrate, Sangrur to the effect that the petitioner was not working as document writer in the sub Tehsil Longowal for the last about two weeks and before that he was not working for a long time. On account of his non working the people of Longowal were facing great difficulty in purchasing stamps. The petitioner sent reply but the same was not considered satisfactory by

the Registrar -cum-Deputy Commissioner, Sangrur and accordingly he passed a cryptic and non speaking order on 12.5.2002 which reads thus:

Sh. Om Parkash Deed Writer, Sub Tehsil Longowal was not doing his work regularly in Sub Tehsil Longowal. As a consequence thereof public was experiencing great difficulty. A report was received in this connection from Sub Divisional Magistrate, Sangrur vide No. 360/RC dated 7.3.2002 in this office. A show cause notice was issued to Sh. Om Parkash Deed Writer Longowal in this connection vide this office letter NO.88/HRS dated 5.4.02. He has given his reply thereto on 22.4.02. After looking into the reply of Sh. Om Parkash Deed Writer Longowal it has been found-unsatisfactory. Keeping public interest in view the deed writing licence 1/DWL/89 of Shri Om Parkash Deed Writer is hereby cancelled.

3. The petitioner filed an appeal under Rule 16 of the Rules before the Commissioner, Patiala Division, Patiala and succeeded in perusading the Commissioner to accept the appeal. The Commissioner on 17.3.2004 (Annexure P.6) recorded a finding that it has been revealed from the record that the petitioner was not willfully absent from duty and that the order cancelling his licence has been passed at his back. However, the respondent-State feeling aggrieved by the order of the Commissioner filed an appeal before the Financial Commissioner (Revenue)-respondent No. 3. The appeal was accepted and order passed by the Registrar cum Deputy Commissioner, Sangrur on 12.5.2002 was restored. The operative part of the order passed by the Financial Commissioner is explicit from perusal of para 5 which reads thus:

I have heard arguments put forth by both the counsel and also the written arguments filed by the counsel for the respondent and record of the lower courts. It is provided under rule 16 of the Punjab Document Writers Licensing rules 1961 that "Any person" aggrieved may prefer appeal. Any person under rules ibid means the State also. Hence the maintainability of present appeal is not questionable. The respondent remained absent for months together and as such caused undue harassment to public/litigants. Moreover the respondent is having Stamp Vendee Licence also. I am therefore inclined to agree with the averments put forth by the Senior State counsel, accept the appeal and uphold the order dated 12.5.2002 of the Registrar Sangrur and set aside the order dated 17.3.2004 of the Commissioner.

4. We have heard the learned Counsel for the parties at some length. The provisions of the Rules do not envisage cancellation of licence issued to a document writer licence on the ground of absence from his place of work. Rule 14 of the Rules has listed conditions of licence and Rule 15 of the Rules provide for penalty for breach of those conditions. Rules 14 and 15 of the Rules are reproduced hereunder for facility of reference:

14. Conditions of licence.- A document writer:

(a) shall maintain a register in Form B and shall on demand produce the same for inspection by the registering officer;

(b) shall provide, at his own expense, with a seal on which shall be engraved in the rational language of the district where he carries on his business, his name and the year in which he was licensed.

c) shall write documents briefly, properly, plainly and legibly;

d) shall sign every document written by him, affix his seal and enter therein the number which bears in his register and also the fee charged for writing the same,

e) shall not dictate any document or cause a document written by any other person;

f) shall not write or cause to be written by any other document writer any document which he knows to be unnecessary or fraudulent in nature.

(g) shall be responsible to see that the document is written on a stamp paper of proper value and that the document is classified according to its substance;

(h) shall not act as a recognised agent or witness in respect of the execution of any document written by him;

(i) shall not charge fees in excess of those prescribed in these rules ;

(j) shall not engage himself in any other trade or business without the previous permission in writing of the Inspector- General of Registration;

1[and in the case of a document-writer who is also a petition writer such permission shall not be granted without the prior approval of the High Court];

(k) shall not change his place for which he holds the licence without the previous permission of the Inspector-General of Registration ;

(l) shall re-write free of charge the document written by him in an incomplete and defective manner and indemnify the party concerned for the loss suffered by it as a result of the document being re-written ;

(m) shall surrender to the Licensing authority his licence if it is suspended or cancelled.

2[(n) shall exhibit the table of fees prescribed in rule 13(1) conspicuously at the place where he carries on the business of writing documents ;

(o) shall maintain the printed receipt book [in form C] containing foils and counterfoils and give a receipt for the amount of fee received by him for writing any document.]

4[(p) shall furnish to the Licensing Authority or any Officer of the Registration Department specified in this behalf truly and correctly such information in relation to his practice as a document writer as may be required from him.]

15. Penalty for breach of conditions of licence.- (1) The Licensing Authority or the Inspector-General of Registration may, after giving the document-writer an opportunity of being heard suspend his licence or cancel the same if he is found to have committed a breach of any of the conditions of his licence.

(2) without prejudice to the provisions of Sub-rule (1) the Licensing Authority or the Inspector-General of Registration may, on an application made to it or him in writing, get the fee charged by a document- writer in excess of the prescribed scale refunded to the applicant.

(3) An action taken under Sub-rule (1) and Sub-rule (2) shall be recorded on the licence by the Licensing Authority.

5. A perusal of the afore-mentioned rules makes it evident that on account of absence from place of work, there is no provision for cancellation of licence. However, it is pertinent to notice that according to Rule 12 of the Rules licence remains valid upto 31st of December of the year in which it has been issued and the same is renewed on payment of specific fee. The renewal is of course a routine matter which is not to be refused. It is well settled that if the licencing authority wishes to refuse renewal then it has to comply with the principles of natural justice by issuing notice and granting hearing to the aggrieved persons because there are legitimate expectation in these facts and circumstances.

6. It is also evident from the record that the Sub Divisional Magistrate in his report submitted to Addl. Deputy Commissioner had alleged that the people of the area were facing difficulty for purchasing stamps. There was no report nor any notice issued to the petitioner with regard to his licence of deed writing. Therefore on that score also impugned orders cannot be sustained.

7. We are further of the view that the absence of the petitioner was not without any willful excuse because his brother in law was seriously ill who eventually died. It has further come on record that the petitioner was not the only document writer and there were others to look after the need of the public. Therefore, we are of the considered view that the order dated 12.5.2002 (Annexure P.1) passed by the Registrar-cum Deputy Commissioner and order dated 17.9.2007 (Annexure P.7) passed by the Financial Commissioner are liable to be set aside.

For the reasons afore-mentioned this petition succeeds. The impugned orders dated 12.5.2002 (Annexure P.1) and order dated 17.9.2007 (Annexure P.7) are set aside. The respondents are directed to restore the Deed Writers licence of the petitioner forthwith. The petitioner is entitled to costs which is quantified at Rs. 2,500/-.