

(2005) 01 MAD CK 0126

Madras High Court

Case No: Writ Petition No. 3518 of 2004 and W.P. M.P. No. 3566 of 2004

A. Singaravel

APPELLANT

Vs

The District Registrar and
Another

RESPONDENT

Date of Decision: Jan. 31, 2005

Acts Referred:

- Tamil Nadu Document Writers Licence Rules, 1982 - Rule 16, 16(1), 17, 5

Hon'ble Judges: P.D. Dinakaran, J

Bench: Single Bench

Advocate: S. Nagamurthu, S.C, for the Appellant; K.V. Vijayakumar, Spl. G.P., for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

P.D. Dinakaran, J.

Heard both the parties.

2. The petitioner has prayed for the issue of a writ of certiorarified mandamus calling for the proceedings of the first respondent and quash the order in Na. Ka. No. 6367/B2/2004-4, dated 27-10-2004 and to direct the first respondent to drop all further proceedings against the writ petitioner in this regard.

3. According to the petitioner he was granted a valid licence bearing License No. A/226/TNJ/84 under the Tamilnadu Document Writers Licence Rules 1982 (hereinafter referred to as "the Rules") to practice as a document writer in all the offices in the State, and the same has been renewed from time to time and was valid till 31-12-2008. With the above license, the petitioner was practising as a Document Writer in the office of the Sub-Registrar at. Karanthattankudi, Thanjavur.

4. However, the first respondent, by his proceedings in Na. Ka. No. 6367/B2/2004,, dated 27-10-2004, which is Impugned in the above writ petition, suspended the license of the petitioner temporarily with effect from the afternoon of 27-10-2004, pending final orders, on the ground that a document was written by him on 4 fake stamp papers of the value for Rs. 1000/- each. Aggrieved by the said order of suspension dated 27-10-2004, the petitioner has filed the above writ petition.

5. Mr. S. Nagarnuthu, the learned counsel appearing on behalf of the petitioner, challenging the said impugned proceedings dated 27-10-2004, seriously contends that the impugned proceedings dated 27-10-2004 are totally without jurisdiction. He contends that the only rule which enables the first respondent to pass an order of suspension is Rule 16(1) of the Rules, which deals with the suspension and cancellation of licence, and the said Rule 16 of the Rules can be resorted to only by way of a punishment, but not by way of an interim action, pending final orders. He further contends that there is no other rule authorising the first respondent to pass an order of suspension or cancellation of licence, pending final orders. Mr. S. Nagarnuthu, therefore, contends that without arriving at a finality in the enquiry pending against the petitioner for the alleged offence, the first respondent cannot resort to invoke Rule 16 of the Rules and therefore, the impugned order is totally without jurisdiction.

6. Mr. K. V. Vijaykumar, learned Special Government Pleader, arguing in support of the impugned order contends that the power given under Rule 16 of the Rules to pass a final order of suspension or cancellation includes the power to pass interim suspension, pending final orders, and therefore, the contention of the petitioner in this regard is not tenable in law. Rule 17 of the Rules provides an appeal against the order passed under Rule 16 of the Rules within two months from the date of the said order and the petitioner, having failed to prefer a statutory appeal under Rule 17 (a) of the Rules, is not entitled to maintain the above writ petition.

7. I have given a very careful consideration to the arguments of both sides.

8. In this context, it is apt to refer Rules 16 and 17 of the Rules which are relevant for the purpose of the disposal of the above writ petition.

Rule 16 :--

"Suspension and cancellation of the license -

1) The District Registrar shall have the power to suspend the licence of the document writer in his district for a period not exceeding a month at a time for misconduct or unsatisfactory work.

2) The Licensing Authority shall have power to suspend for any length of time the licence of a document writer for misconduct or unsatisfactory work.

3) The Licensing Authority shall have the power to revoke or cancel the licence of a document writer for misconduct or unsatisfactory work or for any disqualification prescribed in Rule 5, or for breach of any of the conditions of the licence, after giving him an opportunity to show cause against the action proposed to be taken against him."

Rule 17 :

"Appeals--

(a) An appeal against an order passed by the District Registrar under Rule 16 shall be made to the Licensing Authority within two months from the date of the order.

(b) An appeal against the orders of the Licensing Authority shall lie to the State Government within two months from the date of the order."

9. As rightly pointed out by Mr. S. Nagainuthu, learned counsel for the petitioner, there is no other provision in the Rules which deals with the suspension, cancellation and the appeals against the said orders, nor there is any provision which deals with an enquiry into the alleged offence. Therefore, the only power which enables the authorities namely the District Registrar or the licensing authority to impose the punishment for the alleged offence is Rule 16 of the Rules. Further, only when a document writer is suspended or his licence is cancelled by way of a punishment imposed under Rule 16 of the Rules, an appeal will lie against the said order of suspension or cancellation before the licensing authority within two months from the date of the said order, as provided under Rule 17.

10. A plain reading of Rule 16(1) of Rules makes it clear that :

(i) The District Registrar (namely the first respondent herein) shall have the power to suspend the licence of the document writer in his District :

(ii) Such an order of suspension shall be only for a period not exceeding a month at a time; and

(iii) Such suspension can be resorted to only for misconduct and unsatisfactory work.

11. If the impugned order dated 27-10-2004 is tested in the light of the above ingredients, it is clear that even though the first respondent, District Registrar is empowered to pass an order of suspension, the impugned proceedings dated 27-10-2004 does not satisfy the ingredients (ii) and (iii), namely such an order of suspension shall be made only for a period not exceeding a month at a time, and that such suspension shall be for misconduct or unsatisfactory work of the document writer.

12. By the impugned order dated 27-10-2004, the licence of the petitioner was suspended with effect from 27-10-2004 temporarily until further orders. The order

does not say that the impugned suspension is made for a period not exceeding a month at a time. On the other hand, the impugned order had been passed in the public interest and due to pending enquiry into alleged charges.

13. It may be noted that Rule 16 of the Rules does not empower the first respondent to pass an order of interim suspension pending an enquiry into the serious criminal charges; or during an enquiry into the allegations into the misconduct or unsatisfactory work. Rule 16(1) empowers the first respondent to pass an order of suspension for a period not exceeding one month at a time only if and when the respondent namely the District: Registrar comes to a conclusion that the petitioner herein has committed a misconduct or unsatisfactory work.

14. I agree with the contention of Mr. S. Nagamuthu that the impugned order is totally without jurisdiction and does not come within the purview of Rule 16 of the Rules.

15. Assuming that the impugned order is not intended for a period not exceeding a month, I have no option but to come to a conclusion that the impugned order lapses on 26-11-2004 automatically by operation of law as per Rule 16(1) of the Rules.

16. Viewing from any aspect, I am inclined to hold that the impugned order is liable to be quashed.

17. In the result, the writ petition is allowed. However, there is no order as to costs. In view of the orders passed in the main writ petition itself, no further order is required in the related WPMP No. 3566 of 2004 and accordingly, the same is closed.