

GAHC010208802023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5499/2023

DULAL UDDIN AHMED AND ANR
S/O- LATE MAFIZ UDDIN AHMED, R/O- VILL.- KHUDIMARI PAT-II, P.O.
KHUDIMARI, P.S. GOHPUR, DIST. DHUBRI, ASSAM

2: SUMAN AHMED
S/O- DULAL UDDIN AHMED
R/O- VILL.- KHUDIMARI PAT-II
P.O. KHUDIMARI
P.S. GOHPUR
DIST. DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, REVENUE DEPARTMENT, DISPUR, GHY-06.

2:DEPUTY COMMISSIONER
DHUBRI
P.O. AND DIST. DHUBRI
ASSAM
PIN- 783301.

3:THE DISTRICT REGISTRAR
DHUBRI
P.O. AND DIST. DHUBRI
ASSAM
PIN- 783301.

4:SR. SUB-REGISTRAR
DHUBRI
P.O. AND DIST. DHUBRI
ASSAM

PIN- 783301

Advocate for the Petitioner : MR. A RAHMAN, MRS. K DEVI, MS S A KHALIFA

Advocate for the Respondent : GA, ASSAM, SC, REVENUE

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 17.09.2024

1. Heard Mr. A Deka learned counsel for the petitioners.
2. The petitioner is a licensed Deed Writer. The petitioners assailed the order dated 30.08.2023 issued by the respondent No.3, The District Registrar, Dhubri whereby, the license of the petitioner has been cancelled.
3. It is argued by Mr. Deka that the aforesaid license has been cancelled without giving the petitioners any opportunity of hearing, the order has been passed in violation of principles of natural justice. Therefore on this count alone the impugned order is liable to set aside.
4. Per contra, learned counsel for the respondent referring to paragraph 6 of the affidavit in opposition submits that the petitioners were informed to appear before the office chamber of senior Sub Registrar, Dhubri on 28.08.2023 and accordingly the petitioners appeared before the respondent No.3 on that date but had misbehaved with the authority and also used unparliamentary language and they have failed to defend the alleged forgery

committed by them.

5. Heard the learned counsel for the parties. Perused the pleadings as well as also gone through the registration manual of Assam.

6. Rule 14(7) of the Manual empowers the Registrar to cancel a license of any Deed writer who is guilty of disobedience of a lawful order or any other impropriety.

7. In the case in hand, what is discernible from the affidavit in opposition filed is that the license has been cancelled for the reason that the petitioners prepared forged sale deeds and appeared before the Sub Registrar for execution of such sale deeds and after scrutiny and verification of the relevant documents by the authorities, more particularly by the respondent No.3, found out that the NOC prepared by the petitioner No.2 was a forged NOC. So far relating to the petitioner No.1, the fundamental allegation is that during the hearing he misbehaved with the officer.

8. Rule 14(7) of the Manual empowers the Registrar to cancel a license of the Deed writer who is guilty of disobedience of a lawful order or any other impropriety.

9. In the case in hand though in the affidavit in opposition, impropriety as well as disobedience has been alleged, however, in the considered opinion of this court, such decision was a unilateral decision without giving any opportunity of hearing to the petitioner for the reason that admittedly, no written notice was issued to the petitioners as regards the allegation.

10. The principles of natural justice mandates that a reasonable opportunity must be given to a person before taking any action against him. The adjudicating authority must disclose all the material placed before it and must give reasonable opportunity to the affected to submit his/ their case. A fair hearing means that a person against whom an adverse order is passed should be informed of the charges against him giving him an opportunity to submit his explanation to the charges and the person is also have a right to know the material on the basis of which the allegation is proposed to be decide.

11. Law is by now well settled that until and unless the adherence of principles of natural justice is excluded in every action which results in civil consequences, due procedure of principles of natural justice must be followed which has not been followed in this case. A reasonable opportunity means a fair chance to present the case/respond to the show cause. The verbal intimation as stated in the affidavit cannot be treated to be a "reasonable opportunity" in the given facts of the present case.

12. In the considered opinion of this court the cancellation of license of the petitioners shall have an adverse civil consequences inasmuch as it will involve the violation of the petitioner's right under Article 21 of the Constitution of India, more particularly for the reason that on the basis of such license issued in favour of the petitioner, the petitioners are carrying their livelihood.

13. It is correct to say that there is no procedure prescribed

for issuance of any notice under the aforesaid Rule 14(7), however, it is by now equally well settled that until and unless the principles of natural justice excluded by any statutory provision or by any executive instruction backed by law, the principles of natural justice must be followed when the action takes away any right of a person aggrieved or it results in a civil consequences. Therefore, even though there is no procedure prescribed for issuance of any notice, the action of the authority in cancelling the license of the petitioner without giving them any reasonable opportunity of hearing shall entail the impugned order interference of this court.

14. Accordingly the impugned order dated 30.08.2023 is set aside and quashed, however, the licensing authorities shall be at liberty to issue appropriate notice to the petitioners giving them a reasonable opportunity of hearing and proceed thereafter, if so advised.

15. With the aforesaid, the writ petition stands allowed.

JUDGE

Comparing Assistant