

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1196 of 2014**

- Smt. Durga Bajaj, wife of Shri Deepak Bajaj, aged about 37 years, resident of Main Road, Korba, Police Station and District-Korba, (CG)

---- **Petitioner****Versus**

1. State of Chhattisgarh, Through- The Secretary, Revenue Department, Mahanadi Bhawan, Mantralaya, New Raipur, (CG)
2. The Inspector General Registration (Stamp), Raipur, District-Raipur, (CG)
3. The District Registrar and Licensing Authority (Stamp), Korba, District - Korba, (CG)
4. The Deputy Registrar (Stamp) Korba, District-Korba, (CG)

---- **Respondents**

For Petitioner : Shri Prateek Sharma, Advocate.
 For Respondents : Ms. Smiti Sharma, Deputy Govt. Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****25/03/2015**

1. The petitioner has assailed the legality and validity of the order passed by the District Registrar and Licencing Authority, Korba revoking the petitioner's licence for sale of stamps under Rule 27 (c) of the CG Stamp Rules, 1942 (henceforth 'the Rules').
2. Facts of the case, briefly stated, are that the petitioner was granted a vendor's licence under the Stamp Act and the Rules framed thereunder, for the first time in the year 2006. The licence was

renewed in terms of Rule 26 (3)(c) of the Rules and on the date of passing of the impugned order, the renewed licence was in operation.

3. One RTI activist moved an application before the Public Information Officer, Office of District Registrar on 10.3.2014 seeking copy of stamp register maintained by the petitioner for the period 1.11.2008 to 31.12.2008. He also sought copy of entries from 9500-9700 maintained by the petitioner in her register of the year 2008-09. The Sub Registrar informed the RTI activist that the said register is not available in the office. In the appeals preferred by the RTI activist before the first Appellate Authority under the RTI Act, the appellate authority i.e. the District Registrar issued a memo to the Sub Registrar in response to which the Sub Registrar informed the Registrar vide Annexure-R/1 that despite intense search the register is not available in the office. Prior to that, the petitioner was also served a notice by the District Registrar seeking her explanation of the fact that the register maintained by her for the year 2008-09 is not available in the office of Sub Registrar. The petitioner informed the Registrar vide Annexure-P/9 that she has submitted the register maintained by her for the year 2008-09 and it is only after submission of the said register, her licence was renewed for subsequent years.
4. On receiving the reply, the Registrar passed the impugned order under Rule 27 (c) of the Rules revoking licence.
5. Shri Sharma, learned counsel for the petitioner would submit that proviso to Rule 27 provides for opportunity of hearing before

revocation of the licence, however, no such opportunity was granted before revocation of licence, therefore, the impugned order deserves to be set aside.

6. Learned State counsel would submit that the District Registrar has passed the impugned order only after hearing the petitioner, therefore, it does not call for any interference. She would also submit that the petitioner has an alternative remedy of preferring revision before the Revenue Commissioner.
7. Insofar as objection to the maintainability of the writ petition on the ground of availability of alternative remedy is concerned, it would be appropriate to mention that the petition is at the stage of final hearing. No such objection was raised when the petition was fixed for final hearing. Even otherwise, the petitioner is complaining violation of principles of natural justice. It is also settled that rule of exhaustion of alternative remedy is a rule wherein the Court has imposed restriction on its own jurisdiction and in appropriate cases the Court can entertain writ petition where it finds that the order is passed in violation of principles of natural justice.
8. Rule 26 of the Rules provides for grant of vendor's licence. Rule 26(3) (c) provides for renewal of licence for a period of 3 years at a time.
9. Rule 27 provides for revocation of licence. The said rule is reproduced hereunder:-

“27. Revocation of licence.- A licence may be revoked at any time by the Superintendent of

Stamps, or by the authority who granted it, on the following grounds:-

- (a) Breach of any stamp rule;
- (b) Breach of any licence conditions;
- (c) Irregularity in maintenance of records prescribed under these rules;
- (d) Incapability to store sufficient stamps for sale;
- (e) Any other serious irregularity:

Provided that no order under this rule shall be passed, unless the licensed vendor has been given an opportunity of being heard.”

10. Proviso to Rule 27 would manifest that adherence to the principles of natural justice is ingrained in the provision itself.
11. It has been argued by learned State counsel that the petitioner was afforded opportunity of hearing before passing the impugned order.
12. In **Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota Vs. Shukla and brothers**¹, the following has been held:-

“**14.** The principle of natural justice has twin ingredients; firstly, the person who is likely to be adversely affected by the action of the authorities should be given notice to show cause thereof and granted an opportunity of hearing and secondly, the orders so passed by the authorities should give reason for arriving at any conclusion showing proper application of mind. Violation of either of them could in the given facts and circumstances of the case, vitiate the order itself. Such rule being applicable to the administrative authorities certainly requires that the judgment of the court should meet with this requirement with higher degree of satisfaction. The order of an administrative authority may not provide reasons

1 (2010) 4 SCC 785

like a judgment but the order must be supported by the reasons of rationality. The distinction between passing of an order by an administrative or quasi-judicial authority has practically extinguished and both are required to pass reasoned orders.”

(Emphasis supplied)

13. In the case at hand, the petitioner was issued a letter seeking clarification as to whether she has deposited the register for the year 2008-09. However, there is no notice by the competent authority to the petitioner asking her to show cause as to why vendor's licence granted to her should not be revoked for her failure to submit the register for the year 2008-09. For a notice to be in accordance with provision of law, notice has to specifically mention the action proposed to be taken against an individual. No such notice making it explicit that in the event explanation is not found to be satisfactory the licence shall be revoked, has been issued against the petitioner. Unless the person concerned is warned and noticed of the proposed action, it would not be possible for the person to submit reply to defend himself/herself against the proposed action. Moreover, the notice asking her to deposit the register was also issued by the Registrar in appellate proceeding wherein the Registrar was considering the appeals filed by RTI activists under the Right to Information Act. It was not an independent proceeding initiated against the petitioner for revocation of licence.
14. For the foregoing, this Court is of the considered opinion that the respondent Registrar has acted in violation of principles of natural justice by not issuing proper show cause notice and giving opportunity

of hearing to the petitioner. Therefore, on this sole ground the writ petition deserves to be and is hereby allowed. The impugned order is set aside. It would be open for the Registrar to draw fresh proceeding against the petitioner in accordance with law.

J U D G E

Barve

HEADLINES

Cancellation of vendor's licence under Stamp Act; notice of proposed action not issued; action taken is violative of principles of natural justice.