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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of hearing and Order: 2nd February 2015

+ W.P.(C) 961/2015
SHRI RAJNIKANT

..... Petitioner

Through: Mr. Sachin Chauhan, Advocate

versus

THE COMMISSIONER OF POLICE & ANR

..... Respondents

Through: Ms. Ruchi Sindhwani, Additional
Standing Counsel with Ms. Bandana
Shukla, Advocate

CORAM:
HON'BLE MR. JUSTICE KAILASH GAMBHIR
HON'BLE MR. JUSTICE I.S. MEHTA

ORDER

% **02.02.2015**

KAILASH GAMBHIR, J. (ORAL)
C.M. Appl. No. 1696/2015 (Exemption)

Exemption allowed subject to just exceptions.

Application stands disposed of.

W.P. (C) No. 961/2015

1. By this petition filed under Articles 226/227 of the Constitution of India, petitioner seeks to challenge the impugned order dated 24.09.2013 passed in O.A. No. 2920/2011 by the learned Central Administrative Tribunal, whereby the learned Tribunal has dismissed the Original Application filed by the petitioner on the ground that on the verification carried out by the Inspector, Crime Branch, the Additional Commissioner of Police had intimated that the driving license which was produced by the

petitioner was issued in the name of Ms. Nlangnelholh daughter of Liankhohal Gante and therefore the same was a fake driving licence. The learned counsel for the petitioner submits that an inconsistent report was submitted by the District Transport Authority Manipur and in a subsequent report dated 19.5.2010, it was reported by the same Authority that the licence of the petitioner was genuine. The learned counsel for the petitioner further submits that the report dated 19.5.2010 issued by the same Authority was also placed on record and therefore the same could not be disbelieved by the learned Tribunal just because of a subsequent report submitted by the Crime Branch. He also submits that the petitioner had filed an application under the RTI Act with a request to the said Transport Authority to verify the particulars of the licence which was issued by them in favour of the petitioner and vide reply dated 12.1.2012, the said authority had verified and certified the genuineness of the petitioner's licence. Counsel for the petitioner, thus submits that in the background of these facts the order passed by the learned Tribunal dismissing the original application preferred by the petitioner is illegal and perverse on the very face of it. The learned counsel for the petitioner also submits that the petitioner was also not supplied with any report of the said Transport Authority alongwith the Show Cause Notice served upon him and thus there was a serious infraction of the principles of natural justice on the part of the respondents in not making available the said report of the Transport Authority which formed the basis of the said Show Cause Notice itself.

2. We have heard the submissions of the learned counsel for the petitioner and also gone through the impugned order as well as the material

placed on record.

3. In the batch of many such petitions, the common challenge raised was that these candidates were found to be in possession of fake driving licenses purported to have been issued in their favour by the respective Transport Authorities. The common grievance raised by these petitioners was that before taking a decision to cancel their candidature the respondents ought to have conducted a detailed inquiry so as to give sufficient opportunity to all these applicants to participate in the same and thereafter could have arrived at a just and fair decision on the validity and genuineness of the driving licences produced by them. The impugned order has dealt with the case of the present petitioner in para 37 and for better appreciation the same is reproduced as under:-

37. As far as the effect of the order on the outcome of the criminal trial is concerned, we are sanguine that the standard of proof in two proceedings is totally different. When we may have to take our view on preponderance of probability, before giving finding in a criminal case, the trial Court needs to satisfy itself with the proof beyond reasonable doubt. Besides, we have gone through the copy of the note sheets produced by the applicants. Perusal of the note sheets revealed that the recruiting authority has taken its view only after collecting the report regarding the validity of the licence of the applicant by deputing a responsible officer. From the notings in the case of Rajni Kant (OA 2920/2011), we find that his driving licence no.76828/Ch. was got verified from the issuing authority i.e. District Transport Officer, Churachandpur, Manipur, who vide his report dated 31.03.2010 intimated that the said driving licence is false and fabricated one. Since in another report dated 19.05.2010, the licence was reported as genuine, a

responsible officer was deputed to inquire into the matter. After verification by an Inspector of Crime Branch, the Additional Commissioner of Police (Crime) intimated that the driving licence no. 76828/Ch. was issued in the name of Miss Nlangnelholh d/o Liankholal Gante resident of New Lamka, Churachandpur. For easy reference, relevant extract of the note sheet is extracted hereinbelow:

“Now vide FR, Addl. CP/Crime has intimated that verification about the Driving Licence No. 76828/Ch. was got conducted from the office of DTO/Churachandpur, Manipur and found that the above driving licence was issued on 02.06.2006 in the name of Miss Nlangnelholh d/o Liankholal Gante resident of New Lamka, Churachandpur, Manipur by the DTO/Churachandpur. As regards issuance of letters/reports dated 31.03.2010 and 19.05.2010, the DTO has stated that both the letters have been issued from his office. The letters/ reports dated 19.05.2010 was prepared due to some clerical mistake and he has signed in routine manner as such the same may be treated as nullified. As per DTO’s report (Point No.5&6), Sh. Rajni Kant has not applied for any Driving Licence in this office.”

It would be relevant to extract the analysis of various reports done by the respondents before cancelling the candidature of the applicant in said case:

Date	Report	Action
31.03.2010	Licence is not found in the record of this office it is found to be false and fabricated one.	SCN issued. During the decision of SCN, another report dated 19.05.2010 was also received in this Hdqrs.

19.05.2010	D/L is standing in the name of Rajni Kant and found genuine and correct as per DTO office record.	Due to two contradictory reports, the verification of the both reports were got conducted through Crime Br.
30.07.2010	1.D/L No.76828/Ch. was issued to Miss Nlangnelholh d/o Liankholal Gante of Vengnuam, New Lamka, Churachand Pur on 02.06.2006. 2. Also clarified that both the report dated 31.3.2010 & 19.5.2010 were generated in DTO office and report dated 19.5.2010 was prepared due to some clerical mistake and signed it in a routine manner and report be treated as unified. 3. As per DTO, Churachandpur record Rajni Kant has not applied for any D/L in his office.	On receipt of report, the candidature was cancelled. Aggrieved by this he filed OA No.2920/2011 in which he has annexed a D/L verification report obtained by his Advocate under RTI Act which is in his favour. On direction of Hon'ble CAT verification of said RTI report was got conducted through Crime Br. Now vide FR ACP/AATS/Crime has submitted a report dated 22.10.2012.
22.10.2012	D/L No. 76828/Ch. was issued to Miss Nlangnelholh d/o Liankholal Gante of	

	Vengnuam, New Lamka, Churachand Pur on 02.06.2006.	
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Similarly, in the case of Ashok Kumar Yadav Vs. The Commissioner of Police, Delhi (OA 1566/2012), Inspector (Crime Branch) submitted a verification report dated 30.12.2011 alongwith ARTO report dated 28.12.2011 stating that he personally checked the dispatch register of ARTO Mathura to verify the status of letter dated 3.09.2011 and found the same as demand letter dated 30.08.2011 instead of licence verification report. The said letter was sent to the owner of vehicle No.UP-85-Q-9586. For easy reference, relevant excerpts of the note sheet in the case of Ashok Kumar Yadav are extracted hereinbelow:

“However, Inspr./Crime Branch personally visited Licencing Authority Mathura and submitted his fresh verification report dated 30.12.2011 alongwith ARTO report dated 28.12.2011 (Annexure-V & VI respectively) vide which, he stated that he personally checked the dispatch register of ARTO Mathura to verify the status of letter No. 1202/Licence Satyapan/2011 dated 03.09.2011 (mentioned at para (iii) above in which licence is said to be valid) was found demand letter dated 30.08.2011 instead of licence verification report and the same was sent to the owners of vehicle No. UP-85-Q-9586 therefore it may be treated as null and void.

ARTO Mathura vide his letter dated 28.12.2011 (Annexure V) has also clarified that driving licence No.15237/MTR/07 was issued in the name of Sh. Anil Kumar S/o Metabh Singh instead of Ashok Kumar Yadav (as already stated vide verification report dated 17.01.2011 mentioned at Para (ii) above.”

As has been noticed hereinabove, even driving licence No.15237/MTR/07 was also not found issued in the name of the applicant.”

4. On bare perusal of the aforesaid reasoning given by the learned Tribunal we find that initially on verification of the petitioner's driving licence bearing no. 76828/Ch., the Issuing Authority, i.e. District Transport Officer, vide report dated 31.03.2010 had intimated that the said driving license produced by the petitioner is false and fabricated. Since there was another report dated 19.5.2010 on which reliance was placed by the petitioner, it was reported that the said licence so produced by the petitioner was genuine, therefore in such circumstances, the respondents had deputed a responsible officer to inquire into the entire matter. Inspector of Crime Branch was deputed to probe into the matter and as per the report submitted by him, the Additional Commissioner of Police had intimated that the driving licence No.76828/Ch., was not issued in the name of the petitioner but in the name of Ms. Nlangnelholh d/o Liankholal Gante, resident of New Lamka, Churachandpur. In the said report, it was also pointed out that the letter/report dated 19.5.2010 on which reliance was placed by the petitioner was prepared by him due to some clerical mistake and he had signed in a routine manner and as such the same may be treated as nullified. The inquiry report further revealed that this petitioner had not applied for any driving licence in that office.

5. Keeping in view the fact that the decision of the learned Tribunal is based on the inquiry conducted by the Crime Branch of Delhi Police, we hardly find any tangible reason to interfere with the order passed by the learned Tribunal. The Tribunal has also referred to the decision of the Apex

Court in the case of ***Rubi (Chandra) Dutta vs. United India Insurance Company Limited***, (2011) 11 SCC 269, wherein the Supreme Court held that at the time of giving employment to a driver, the owner is required to be satisfied apropos the correctness and genuineness of the licence he was holding. The tribunal also went on to discuss the judgment of the Hon'ble Supreme Court in the case of ***New India Assurance v. Kamla and Ors.*** (2001) 4 SCC 342, wherein it was held:

“As a point of law we have no manner of doubt that a fake licence cannot get its forgery outfit stripped off merely on account of some officer renewing the same with or without knowing it to be forged. Section 15 of the Act only empowers any licensing authority to "renew a driving licence issued under the provisions of this Act with effect from the date of its expiry." No licensing authority has the power to renew a fake licence and, therefore, a renewal if at all made cannot transform a fake licence as genuine. Any counterfeit document showing that it contains a purported order of a statutory authority would ever remain counterfeit albeit the fact that other persons including some statutory authorities would have acted on the document unwittingly on the assumption that it is genuine.

The observation of the Division Bench of the Punjab and Haryana High Court in National Insurance Co. Ltd. vs. Sucha Singh (supra) that renewal of a document which purports to be a driving licence, will robe even a forged document with validity on account of Section 15 of the Act, propounds a very dangerous proposition. If that proposition is allowed to stand as a legal principle, it may, no doubt, thrill counterfeiters the world over as they would be encouraged to manufacture fake documents in a legion. What was originally a forgery would remain null and void forever and it would not acquire legal validity at any time by whatever process of

sanctification subsequently done on it. Forgery is antithesis to legality and law cannot afford to validate a forgery.”

Similarly in the case of ***United India Insurance Company Limited v. Lehru and Others (2003) 3 SCC 338*** the Apex Court held:

“When an owner is hiring a driver he will therefore have to check whether the driver has a driving licence. If the driver produces a driving licence which on the face of it looks genuine, the owner is not expected to find out whether the licence has in fact been issued by a competent authority or not. The owner would then take the test of the driver. If he finds that the driver is competent to drive the vehicle, he will hire the driver.....”

6. The genuineness and authenticity of the driving licence is one of the indispensable conditions for considering the petitioner’s appointment and for assessing his eligibility for the said post. Based on the inquiry report submitted by the Crime Branch, on which the learned Tribunal has placed reliance holding that the licence produced by the petitioner is fake and not genuine, we find no illegality, perversity, or any ground for interfering with the impugned order dated 24.09.2013 passed in O.A . No. 2920/2011 passed by the learned Central Administrative Tribunal, the present petition is dismissed.

7. No costs.

KAILASH GAMBHIR, J

I.S.MEHTA, J

FEBRUARY 02, 2015

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W.P. (C) No. 961/2015

Page 9 of 9