15th January, 2021
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W.P.A 494 of 2021

Ram Kumar Jhajharia
Vs.
The Union of India & Ors.

Mr. Nilanjan Bhattacharjee
Mr. Saket Sharma
...For the Petitioner.

Ms. Chandreyi Alam
...For Tea Board.

The petitioner was granted a license under the Tea Waste (Control) Order, 1959. Such license was renewed from time to time. Lastly, upon deposit of the requisite differential amount in the form of demand draft, such license stood renewed till December 31, 2021 as per a Circular of the Tea Board dated January 16, 2020.

Learned counsel for the petitioner submits that, thereafter, a communication was made to the petitioner indicating that the petitioner's account had been suspended.

Learned counsel submits that the power to cancel or suspend license is conferred on the authorities under Section 10 of the 1959 Order.

In the present case, there is no indication that the yardsticks mentioned in the said Section have been satisfied.

Moreover, as per Section 10(2) of the Control Order, every order suspending or cancelling a license shall be in writing and shall specify the reasons for the suspension or cancellation and shall be communicated to the licensee within fifteen days of the passing thereof.

In the present case, such procedure was not complied with by the authorities.

Learned counsel appearing for the respondent authorities submits that the renewal of the petitioner's license is still under process. There was a backlog due to the Pandemic situation, for which the process of renewal could not be completed. Moreover, learned counsel submits that the petitioner has failed to produce last five years' documents for the purpose of such renewal, as required by the authorities.

As such, it is submitted that the suspension of account does not tantamount to suspension of the petitioner's license under Section 10 of the Control Order 1959.

Learned counsel for the respondents also places reliance, in this regard, on the 'Conclusion' portion of an order dated November 20, 2020, Reference no: 54(1)/LC/TW-3408, which recorded that the Deputy Chairman has stated that the applicant has to submit last five years' records to the Board's Jalpaiguri Office and FAO, Jalpaiguri will examine the documents and submit the report to H.O.

It appears form the impugned communication that the account of the petitioner was suspended, which had the effect of restraining the petitioner from functioning on the basis of the license granted to the petitioner. As such, the suspension of account operates as suspension of licence of the petitioner, for all practical purposes.

Section 10 of the Control Order 1959 categorically provides a procedure and tests for suspension or cancellation of license, which are not prima facie satisfied in the present case.

In such circumstances, the requirement of production of last five years' records seems extraneous to Clause (a) of the circular of the Tea Board dated January 16, 2020, which merely contemplates deposit of a differential amount in the form of demand draft in favour of the Tea Board for automatic extension of the validity of renewal period till December 31, 2021, which condition, the petitioner submits, was satisfied.

Thus, on the face of the records, since the petitioner's license was already valid till 2018, there cannot be any further requirement of production of documents for a period which goes back beyond 2018.

Be that as it may, the petitioner having made out a strong prima facie case for final hearing of the writ petition on merits, the impugned suspension order, as annexed at page-68 of the writ petition, is stayed till February 28, 2021 or until further orders whichever is earlier.

The respondent shall file their affidavit-in-opposition by January 29, 2021. Reply, if any, shall be filed by the petitioner by February 5, 2021.

The matter shall appear in the list for hearing on February 8, 2021.

(Sabyasachi Bhattacharyya, J.)