



W.P.No.15243 of 2011

8IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2022

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.15243 of 2011
and MP.Nos.1 of 2011 and 1 of 2012

P.Abdul Alim

... Petitioner

-Vs-

The Additional Registrar of Chits
O/o.The Inspector General of Registration
Chennai 600 028.

... Respondent

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the order passed by the respondent herein in his office Ref.No.6815/S2/2011, dated 28.04.2011 and quash the same.

For Petitioner : Mr.P.Mani

For Respondent : Mr.U.Baranidharan
Additional Government Pleader



W.P.No.15243 of 2011

ORDER

This writ petition was filed challenging the impugned order passed by the respondent dated 28.4.2011, whereby the license issued in favour of the petitioner, who is a document writer was suspended.

2.Heard Mr.P.Mani, learned counsel for the petitioner and Mr.U.Baranidharan, learned Additional Government Pleader appearing for the respondent.

3.The issue involved in the present writ petition is covered by the earlier judgment passed by this Court under similar circumstances in W.P.No.11593 of 1994 dated 27.06.2001 wherein, an order of suspension was passed without limiting the same to any specific length of time. The relevant portions in the judgment are extracted hereunder:

5.1 The Tamil Nadu Document Writers, Licence Rules, 1982, are intended to regulate the profession of writing documents, by granting the licence to document writers on the condition incorporated therein. Generally speaking, the power to grant licence, vested on the authorities, includes the power of disciplinary action also, which again necessarily involves the power to suspend or revoke or cancel the licence, in appropriate cases. The power thus intended to revoke or cancel the license inflicts a punishment on the licensee for the violations, if established in the enquiry; however, the power to suspend cannot be confined only to a substantial punishment, but also as an interim suspension pending an enquiry, before inflicting a punishment of cancellation, revocation or suspension of the licence.

5.2 In this regard, as rightly pointed out by Mr. K. Chandru,



W.P.No.15243 of 2011

WEB COPY

learned senior counsel, I am obliged to refer a decision of the Division Bench of this Court in Abdul Kalam case, 1992 (1) MLJ 317, wherein the Division Bench interpreting Rule 16(3) of the Rules, held that a bare reading of Rule 16(3) of the Rules goes to show that the Licensing Authority has enough powers to revoke or cancel a license of a document writer not only for misconduct but even for unsatisfactory work or for disqualification prescribed in Rule 5 of the Rules or for breach of any of the conditions of the license; but such revocation or cancellation of license could not be made without giving an opportunity to show cause against the proposed revocation or cancellation of the license and holding an enquiry in that regard, as contemplated under Rule 16(3) of the Rules. Once such a safe guard is provided under Rule 16(3) of the Rules, I am of the considered opinion, the petitioners cannot be placed under suspension without being provided any opportunity, as the same would be grave to the principles of natural justice.

5.3 *A closer reading of Rules 16(1) and 16(2) of the Rules harmoniously makes it clear that, Rule 16(1) of the Rules empowers the District Registrar to exercise his powers within his district to suspend the license for misconduct or unsatisfactory work and such suspension shall not exceed a month at a time. The words at a time, as rightly pointed out by Mr. K. Chandru, learned senior counsel placing reliance on the decision in Palani Co-op Sales Society case, AIR 1975 Mad. 241, signify or indicate that the power can be exercised by the District Registrar even beyond a period of one month, but, the same cannot be done at the same time. In other words, the suspension could be extended beyond one month, every time extending it only for one month, and in my*



W.P.No.15243 of 2011

WEB COPY

considered opinion, even such period of extending the suspension beyond one month at a time, can be exercised by the District Registrar only if the situation warrants action under Rules 16(3) of the Rules for revoking or cancelling the licence by the licensing authority for the alleged misconduct or unsatisfactory work. Consequently, the power exercised under Rule 16(1) of the Rules could only empower the District Registrar to pass an interim order of suspension in a case where an enquiry is contemplated under Rule 16(3) of the Rules, but not by way of a substantial punishment, suspending the licence indefinitely, without specifying the period, either not exceeding a month at a time or every time restricting it only to one month. Therefore, suspending the petitioners' licence without prescribing the period of suspension even by invoking the powers under Rule 16(2) of the Rules, or otherwise, will be a great violation to the settled position of law in service jurisprudence that the petitioners were deprived of the right to earn their livelihood on account of such arbitrary, unguided powers sought to be exercised by the second respondent invoking Rule 16(2) of the Rules and hence, the second respondent is required to adopt a fair play in action in a just and reasonable manner.

5.4 *Even though under Rule 16(2) of the Rules, the Licensing Authority has got power to suspend the licence of document writers throughout the State of Tamil Nadu, for the misconduct or unsatisfactory work, the same may be exercised only for suspending the licence for a period of one month or more, or for a specific length of time, either by way of substantial punishment for the misconduct or unsatisfactory work, or pending an enquiry without inflicting punishment, or to place the*



W.P.No.15243 of 2011

WEB COPY

licensee under suspension pending an enquiry contemplated under Rule 16(3) of the Rules before revoking or cancelling the licence for such misconduct or unsatisfactory work, and therefore, the same is arbitrary and unreasonable.

5.5 *In any event, if suspension of licence is intended for pending an enquiry, enquiry should have been initiated under Rule 16(3) of the Rules, for such misconduct or unsatisfactory work, which provides an opportunity to the licensee to show cause against the proposed revocation or cancellation of licence.*

5.6 *Even in a case where the alleged misconduct or unsatisfactory work is proved after giving an opportunity to the licensee and the Licensing Authority proposes to suspend the licence exceeding a period of one month inflicting a substantial punishment, the words, viz., 'to suspend for any length of time', employed under Rule 16(2) of the Rules, requires the Licensing Authority to prescribe the length of time specifically, but shall not empower the Licensing Authority to suspend the licence indefinitely, and while suspending the licence for a specific length of time, for an alleged misconduct or unsatisfactory work, again, as rightly pointed out by Mr. K. Chandru, learned senior counsel, the Licensing Authority has to give an opportunity to the licensee to show cause against the proposed punishment or substantial punishment.*

5.7 *On the other hand, if the Licensing Authority proposed to place the licensee under suspension pending an enquiry, under such circumstances, of course, it is difficult to specify the length of time; but*



W.P.No.15243 of 2011

WEB COPY

such order of suspension should disclose the pendency of an enquiry on the alleged misconduct or unsatisfactory work. In the instance case, the impugned order does not refer to any such disciplinary action proposed under Rule 16(3) of the Rules, nor any pendency of criminal case against the petitioners with regard to the alleged use of spurious stamp papers, and therefore deprived the right of the petitioners to work for their livelihood by writing documents, arbitrarily and unreasonably, which certainly attracts Article 14 of the Constitution of India, and also violates Article 21 of the Constitution of India which clubs life with liberty, dignity of person with means of livelihood without which the glorious content of dignity of person would be reduced to animal existence, as observed in D.K. Yadav v. J.M.A. Industries Ltd., [1993 \(3\) SCC 259](#).

5.8 Admittedly no enquiry was initiated by the second respondent against the petitioners for any such misconduct or unsatisfactory work, nor any show cause notice was given to the petitioners before placing them under suspension, nor any time is specified for such suspension to be in force, even as a substantial punishment, nor could it be contended that the petitioners are placed under suspension pending an enquiry, as no enquiry was initiated under Rule 16(3) of the Rules for the alleged misconduct or unsatisfactory work and therefore, the impugned order is, in my considered opinion, arbitrary, unreasonable, perverse, capricious, violative of principles of natural justice and suffers for want of fair play and hence, I am obliged to quash the same.

4. In the present case, the respondent has not conducted any enquiry against the petitioner for any misconduct or unsatisfactory work and the order of suspension has been



W.P.No.15243 of 2011

directly passed under Rule 16 (3)(2) of the Rules and the same is in violation of the principles of natural justice.

5.In view of the above, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

12.07.2022

KP
Internet: Yes
Index: Yes/No

To
The Additional Registrar of Chits
O/o.The Inspector General of Registration
Chennai 600 028.



WEB COPY



W.P.No.15243 of 2011

N.ANAND VENKATESH. J.,

KP

W.P.No.15243 of 2011

12.07.2022