

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12424 of 2021

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Md. Gulam Sarwar @ Gulam Sarwar Son of Late Md. Ibrar Ahmad Khan @ Ibrar Khan, Resident of Village-Ward No. 19, Bikramganj, Police Station-Bikramganj, District-Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
2. The Inspector General, Department of Registration, Government of Bihar, Patna.
3. The District Collector cum Registrar, Rohtas at Sasaram.
4. The District Sub-Registrar, Rohtas at Sasaram.
5. The Sub-Registrar, Bikramganj, District-Rohtas at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Kripanand Jha, Adv. Mr.Raghunandan Kumar Singh, Adv.
For the Respondent/s	:	Mr.P.N. Shahi, AAG-6 Mr.Manish Kumar, AC to Ex-AAG-6

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 08-08-2023

1. The present writ petition has been filed for setting aside the order dated 20.03.2021, as contained in Memo dated 26.03.2021, passed by the Collector-cum-District Registrar, Rohtas at Sasaram, as also for quashing the order dated 27.05.2017, passed by the District Sub-Registrar, Rohtas at Sasaram, whereby and whereunder the Deed Writer's license of the petitioner has been cancelled.

2. The brief facts of the case, according to the petitioner are that the petitioner had chosen the profession of



Deed Writer and subsequently, he was issued a license bearing License No.38 of 2002, by the Collector-cum-District Registrar, Rohtas at Sasaram. It is the case of the petitioner that he was working to the satisfaction of all concerned and there was no complaint from any corner, however, an enquiry is stated to have been conducted by the District Sub-Registrar, Rohtas at Sasaram, whereupon it transpired that loss to the tune of Rs.32,70,000/- has been caused to the State Exchequer on account of incorrect registration of 58 documents in connivance with the Deed Writers, including the petitioner herein and stamp vendors. It is further submitted that an F.I.R. bearing Bikramganj P.S. Case No. 184 of 2016, dated 29.09.2016, was lodged under Sections 419, 420, 467, 468 and 471 of the Indian Penal Code, against the purchasers and others, however, upon investigation, the police found the case to be true only against the purchasers and five unknown persons, named therein, however, nothing was found against the petitioner and he was absolved of the alleged charges levelled in the F.I.R. Nonetheless, a show cause notice was issued to the petitioner on 06.03.2017, asking the petitioner to submit his reply as to why his license be not cancelled, whereafter the petitioner had filed his objections/reply and then the District Sub-Registrar, Rohtas



at Sasaram, by an order dated 27.05.2017 had cancelled the Deed Writer's License of the petitioner with immediate effect.

3. The learned counsel for the petitioner has further submitted that finding the aforesaid order dated 27.05.2017, to have been passed without jurisdiction, inasmuch as the license can only be cancelled by the Licensing Authority, i.e. the Collector-cum-District Registrar, Rohtas at Sasaram, as per Rule 2(g) of the Bihar Deed Writer's Licensing Rules, 1996 (hereinafter referred to as 'the Rules, 1996'), the petitioner had challenged the same by filing an appeal, bearing Appeal Case No.05 of 2017, before the Inspector General, Department of Registration, Bihar, Patna, who, accepting the aforesaid argument of the petitioner, had allowed the appeal by an order dated 22.08.2019, and set aside the impugned order dated 27.05.2017, passed by the District Sub-Registrar, Rohtas at Sasaram, whereafter the matter was remanded back to the Collector-cum-District Registrar, Rohtas at Sasaram, for passing a speaking order considering the provisions contained in the Rules, 1996.

4. It is the further case of the petitioner that the Collector-cum-District Registrar, Rohtas at Sasaram, by the impugned order dated 20.03.2021, has rejected the show cause



reply, filed by the petitioner and revived the aforesaid order dated 27.05.2017, cancelling the Deed Writer's license of the petitioner.

5. The learned counsel for the petitioner has submitted that first of all, none of the points raised in the show cause reply, filed by the petitioner, has been considered. It is next contended that though the petitioner had stated in his show cause reply that he has been absolved of criminal liability in the aforesaid Bikramganj P.S. Case No. 184 of 2016, meaning thereby that he had no role to play in misappropriation of Government's money to the tune of Rs.32,70,000/-, but still the said aspect of the matter has not been considered. Thus, it is submitted that there is no ground to cancel the Deed Writer's license of the petitioner.

6. At this juncture, the learned counsel for the petitioner has referred to Rule 13 of the Rules, 1996, to contend that none of the grounds mentioned therein for cancellation of the license exist in the present case, hence the license of the petitioner could not have been cancelled. In this regard, it would be appropriate to reproduce Rule 13 of the Rules, 1996, hereinbelow:-

*“13. Cancellation and suspension of licence-
(1) The Licensing Authority may at any time*



suspend or cancel the licence of a document writer or apprentice on any of the following grounds-

(a) Violation of any of the rules of the conditions of the licences.

(b) Failure to attend the registration office for a period exceeding six months without a reasonable cause or without the leave or permission of the licensing authority or the registering officer within whose jurisdiction he has been practising.

(2) No order under sub-rule (1) shall be passed, unless the document writer or the apprentice, at the case may be, has been asked to show cause against the proposed suspension or cancellation of the licence and the cause shown by him has been duly considered by the Licensing Authority.”

7. The learned counsel for the petitioner has lastly submitted that the Collector-cum-District Registrar, Rohtas at Sasaram has committed yet another illegality, while passing the impugned order dated 20.03.2021, inasmuch as, he has referred to certain notings in the file, to arrive at an inference that in the past also the petitioner had submitted his show cause reply, which was found without merit, hence decision was taken to cancel the Deed Writer's license of the petitioner, which has



been used for passing the impugned order dated 20.03.2021, however, the same has never been either disclosed or put to the petitioner, thus, apparently, extraneous materials have been relied upon to arrive at a finding against the petitioner, an action, which is not sustainable in the eyes of law, being in violation of the principles of natural justice. Moreover, the Collector-cum-District Registrar, Rohtas at Sasaram, has illegally revived the order dated 27.05.2017, passed by the District Sub-Registrar, Rohtas at Sasaram, which is no longer in existence, inasmuch as the same was set aside by the Inspector General, Department of Registration, Bihar, Patna, vide order dated 22.08.2019.

8. Per contra, the learned counsel appearing for the respondent-State has submitted that there is no irregularity in the procedure followed by the respondent-authorities, hence no interference is required with the impugned order dated 20.03.2021, nonetheless, it is not disputed that though the impugned order dated 27.05.2017, passed by the District Sub-Registrar, Rohtas at Sasaram, was set aside and the same is not in existence, the same could not have been revived by the Collector-cum-District Registrar, Rohtas at Sasaram. In fact, to the query of this Court, as to how extraneous materials have



been relied upon by the Collector-cum-District Registrar, Rohtas at Sasaram, without making the petitioner aware about the same and granting him a chance to respond to the same, while passing an order against the petitioner, the learned counsel for the respondent-State has not been able to defend the said act of the Collector-cum-District Registrar, Rohtas at Sasaram.

9. I have heard the learned counsel for the parties and have gone through the materials on record. A bare perusal of the impugned order dated 20.03.2021, would show that firstly, the Collector-cum-District Registrar, Rohtas at Sasaram, has not considered the fact that none of the grounds mentioned in Rule 13 of the Rules, 1996, for proceeding against the petitioner, exist in the present case, secondly, the grounds raised by the petitioner in his show-cause reply have not been adverted to, especially the ground regarding him being absolved of criminal case/charges, inasmuch as the police, upon investigation, has not found any role of the petitioner in the alleged occurrence, thirdly, he has violated the principles of natural justice by relying on some internal notings in the file, without confronting the petitioner with the same, fourthly, he has not furnished any cogent, clear and succinct reasons for arriving at a decision to cancel the Deed Writer's license of the petitioner and has merely



relied upon the earlier noting in the file regarding cancellation of the license of the petitioner on an earlier occasion, as also on the order dated 27.05.2017, issued earlier by the District Sub-Registrar, Rohtas at Sasaram, cancelling the Deed Writer's license of the petitioner, meaning thereby that he has neither exercised his independent mind nor has furnished any reason, whatsoever for cancelling the Deed Writer's license of the petitioner, which is an indispensable component of a decision making process and lastly, he has merely revived the earlier order dated 27.05.2017, passed by the District Sub-Registrar, Rohtas at Sasaram, cancelling the Deed Writer's license of the petitioner, which in fact is not in existence, inasmuch as the same was set aside the by the Inspector General, Department of Registration, by an order dated 22.08.2019, passed in the appeal filed by the petitioner herein.

10. On the issue regarding furnishing of cogent, clear and succinct reasons, in support of an order, being an indispensable component of a decision making process, this Court would like to refer to a judgment rendered by the Hon'ble Apex Court in the case of ORYX Fisheries (P) Ltd. vs. Union of India, reported in (2010) 13 SCC 427.

11. Having regard to the facts and circumstances of



the case and for the reasons mentioned herein above, this Court finds that the order dated 20.03.2021, contained in Memo dated 26.03.2021, passed by the Collector-cum-District Registrar, Rohtas at Sasaram is arbitrary, perverse and illegal as also suffers from non application of independent mind, hence is not sustainable in the eyes of law, thus is quashed. Consequently, the respondents are precluded from proceeding further in the matter.

12. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	23.08.2023
Transmission Date	NA

