



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO.2833 OF 2023

1) Dilip s/o Ajabrao Gawande,
aged about 59 years,
occupation : Stamp Vendor,
r/o Plot No.166, Sai Nagar,
Kale Layout, Zingabai Takli,
Godhani Road, Nagpur-440030.

2) Sanjay s/o Appaji Harade,
aged about 58 years,
occupation : Stamp Vendor,
r/o Plot No.59, Dhobale Layout,
Surya Nagar, Nagpur.

... Petitioners

- Versus -

1) State of Maharashtra, through
its Secretary, Revenue Department,
Mantralaya, Mumbai-400032.

2) The Collector of Stamps,
(Maharashtra State), Collector
Compound, Civil Lines, Nagpur.

3) Deputy Inspector General – Stamp
Duty/Deputy Collector of Stamps, Civil Lines,
Nagpur.

4) Additional Inspector General – Stamp
Duty and Superintendent of
Stamp Duty, Maharashtra State,
Pune.

... Respondents

Shri Shashibhushan Wahane, Advocate for petitioners.

Ms. N.P Mehta, Additional Government Pleader for respondents.

CORAM : A.S. CHANDURKAR AND ABHAY J. MANTRI, JJ.

DATED : NOVEMBER 02, 2023

ORAL JUDGMENT (PER A.S. CHANDURKAR, J.):

Rule. Rule is made returnable forthwith. Heard learned Counsel for the parties.

2) The petitioners are licensed vendors, who have been permitted to sell judicial and non judicial stamps in accordance with the licences granted under the Bombay Stamps Supply and Sale Rules, 1934. Insofar as petitioner no.1 is concerned, he was granted licence on 14/5/1986, which has been extended till 31/3/2024. Similarly, petitioner no.2 has been granted such licence on 31/12/1987, which is to operate till 31/3/2024. On the basis of information received by the Officers of the Economic Offences Wing, a crime came to be registered on 1/6/2022 under the provisions of Sections 420, 167, 467, 468 read with Section 34 of Indian Penal Code as well as Section 13 of the Maharashtra Stamp Act, 1958. In view of registration of first information report, the Collector of

Stamps on 10/6/2022 passed an order suspending the licences issued to the petitioners in exercise of powers under Rule 10 of the Rules of 1934. The said licences were suspended till completion of the criminal trial. Being aggrieved, the petitioners have challenged the aforesaid communication dated 10/6/2022.

3) Shri Wahane, learned Counsel for the petitioners, submits that under Rule 10 of the Rules of 1934, it is open for the Collector of Stamps to revoke a licence granted, but there is no power to suspend such licences pending criminal trial. Disputing the contents of the first information report, it is submitted that if the order of suspension of licences is to operate till conclusion of criminal trial, the same would be for indefinite period causing prejudice to the petitioners. He further submits that since grant of such licences, the petitioners have been undertaking sale of judicial and non judicial stamps in a legal manner. It is, therefore, submitted that the impugned order is liable to be set aside.

4) Ms. Mehta, learned Additional Government Pleader for the respondents, has supported the impugned order. According to her, the contents of the first information report as well as the charge-sheet filed on 5/12/2022 indicate complicity of the

petitioners. The powers under Rule 10 of the Rules of 1934 have been rightly invoked and in case the petitioners are acquitted in the criminal trial, the licences would be restored.

5) We have heard the learned Counsel for the parties and perused the documents on record. It is not in dispute that pursuant to registration of first information report on 1/6/2022, the Collector of Stamps has proceeded to exercise powers under Rule 10 of the Rules of 1934. Rule 10 enables licences to be revoked. As a larger power of revoking a licence is conferred, the exercise of lesser power of suspension cannot be held to be not permissible.

In the present case, the licences of the petitioners have not been revoked, but they have been suspended till conclusion of the trial. The only aspect, therefore, to be considered is whether the order of indefinite suspension of the licences is excessive. The charge-sheet having been filed on 5/12/2022, it is informed that trial is yet to commence with framing of charge and recording of evidence. In these facts, we find that continuation of order of suspension for an indefinite period dependent upon conclusion of criminal trial is excessive and causes prejudice to the petitioners. The period of almost a year and half has lapsed since the licences granted to the petitioners have been suspended. The trial is yet to

commence and is not likely to conclude in the near future. In these facts, we find that suspension of licences of petitioners for an indefinite period is excessive and hence, the case for interference to a limited extent is made out.

6) Accordingly by upholding the power to suspend the licences under Rule 10 of the Rules of 1934, it is held that as period of one and half years has lapsed since the licences of the petitioners have been suspended and there is no likelihood of trial being concluded in the near future, the indefinite suspension of the licences is unsustainable. It is directed that the order dated 10/06/2022 suspending the licences of the petitioners shall cease to operate from 06/11/2023. It is, however, made clear that continuation of the licences of the petitioners will be subject to outcome of the criminal trial. The petitioners are bound to comply with all the terms and conditions of the licences.

7) With the aforesaid directions, the writ petition is partly allowed. Rule is made absolute accordingly. No costs.

JUDGE

JUDGE

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