

Raj Kumar Vs. the Licencing Authority, Pilibhit and anr.

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Court : Allahabad

Decided On : Feb-19-1985

Reported in : AIR1985All325

Judge : O.P. Saxena and ;B.L. Yadav, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : Civil Misc. W.P. No. 8073 of 1984

Appellant : Raj Kumar

Respondent : The Licencing Authority, Pilibhit and anr.

Advocate for Pet/Ap. : V.K. Nagaich and ;Satya Prakash, Advs.

Disposition : Petition allowed

Judgement :

B.L. Yadav, J.

1. The present petition under Article 226 of the Constitution is directed against the order dt. 20-6-84 passed by respondent 1 (Annexure-4 to the petition), whereby the licence granted to the petitioner to hold the cattle market on the petitioner's hhumidhari plots was cancelled.

2. The facts shorn of details leading to the present petition are: that the petitioner was the bhumidhar of plot No. 49, area 1.12 acres, plot No. 31, area Order 44 acre, plot No. 47A, area Order 81 acre and plot No. 47-B, area 4.61 acres. The petitioner's father was entered as bhumidhar. The petitioner applied for grant of licence to hold cattle market on his those bhumidhari plots. The licence was sought from respondent 1 in accordance with the provisions of Kshctriya Samiti and Zila Parishad Adhiniyam for the year 1984-85. Requisite enquiries were made and the petitioner was directed by respondent 1 to deposit the requisite licence fee and the petitioner deposited the same on 19-4-84. The petitioner was issued necessary licence by order dt. 28-5-84 (Annexure 3 to the petition). The petitioner was, thereafter, not informed of any complaint against him or against the order of grant of licence and all of a sudden he received the impugned order Dt. 20-6-1984 cancelling his licence. It is against this order the present petition has been filed.

3. The case of the respondent is that the licence has been cancelled as there was another market being held in Bhisalpur Block, Village Pahargunj, which was at a distance of two Km. and there was complaint against the petitioner. Hence the licence was cancelled to maintain law and order situation as this market was also being held on the same dates when the petitioner was holding the market.

4. We have heard the counsel for the parties. It has been urged by the learned counsel for the petitioner that the petitioner was Bhumidhar of the plots in dispute and he has all the rights to use his land in any way. He has got transferable rights also in view of Section 152 of the U. P. Z. A. & L. R. Act. We think that holding cattle market is also a purpose connected with agriculture as contemplated by definition of land given in Section 3(14) of the Act. Hence the petitioner could have used the land in any way he liked. The counsel for the petitioner further urged that the impugned order was violative of the principles of natural justice as he was not afforded any opportunity before passing the impugned order. The impugned order affected the legal right of the petitioner to hold the cattle market on his own bhumidhari land which could not be curtailed, of course, subject to law and order situation. But for that also the petitioner should have been given opportunity of being heard before passing the impugned order. Hence the impugned order deserves to be quashed.

5. The learned Standing Counsel appearing on behalf of the respondents urged [hat impugned order was correct as the licence could have been cancelled at any time. In the circumstances of the case he urged that the petitioner was entitled to no relief from this Court.

6. We have heard the counsel for the parties and are of the view that since the petitioner was a Bhumidhar, he has got all the rights to use his land in any way connected with agriculture and the holding of cattle market was also a purpose connected with agriculture. Hence the petitioner's legal right could not be affected. The petitioner has also obtained licence which was granted to him after making necessary enquiries. It was open to respondent 1 at that stage to have raised objection. The licensing authority could have made enquiries about the feasibility of permitting the petitioner to hold the cattle market over the petitioner's Bhumidhari land. Once the licence was granted and if there was any complaint against the petitioner, he could have been given an opportunity of being heard. From the record of the case including counter and rejoinder affidavits it is clear that the petitioner was not heard nor he was given any opportunity of showing cause before cancelling the licence granted to him. Even though the order may be assumed to be an administrative order, but it affected the legal right of the petitioner. Even the administrative order affecting the rights of an individual could not be passed without hearing the person concerned. The instant order is non-speaking also without assigning any reason for cancellation of the licence. It did not even state as to for what reason the licence granted to the petitioner was being cancelled. The impugned order is accordingly manifestly erroneous and cannot be sustained.

7. It is very unfortunate that even after holding a valid licence for cattle market on his own bhumidhari land the petitioner was deprived of the benefit accruing to him from the same by manifestly erroneous and arbitrary order passed against him without hearing him. The petitioner was deprived of the use of his cattle market for about 8 months. This fact can be taken into account by the licensing authority for granting him any licence in future.

8. In view of the discussion made hereinbefore, the present petition succeeds and is allowed. The impugned order dt. 20-6-84 (annexure-4) is hereby quashed. The petitioner would also be entitled to his cost.

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