

Vijay Kumar Vs. District Registrar/Additional Collector, Pilibhit and Another

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Court : Allahabad

Decided On : Apr-21-1999

Reported in : 1999(2)AWC1751; (1999)2UPLBEC1276

Judge : Binod Kumar Roy and ;Onkareshwar Bhatt, JJ.

Acts : Uttar Pradesh Document Writers Licensing Rules, 1977 - Rules 16 and 16(1 and 2)

Appeal No. : C.M.W.P. No. 20639 of 1993

Appellant : Vijay Kumar

Respondent : District Registrar/Additional Collector, Pilibhit and Another

Advocate for Def. : P. K. Bisaria, S. C.

Advocate for Pet/Ap. : Ashok Bhushan, Adv.

Judgement :

Binod Kumar Roy and Onkareshwar Bhatt, JJ.

1. Thepetitioner, a 'Document Writer' within the meaning of the Uttar Pradesh Document Writers Licensing Rules. 1977 (hereinafter referred to as the Rules), has come up with a prayer to quash the order dated 17.5.1993 passed under Rule 16 (I) of the Rules by the Additional Collector (Finance and Revenue)/Ex-Officio.

District Registrar, Pilibhit, as contained in Annexure-2, suspending his licence with immediate effect on the ground that it is violative of the principles of natural justice as contained in Rule 16 (2) of the Rules which lays down that no order under sub-rule (1) shall be passed unless the document writer has been given an opportunity of being heard in his defence.

The Submissions :

2. Sri Ashok Bhushan, learned counsel appearing in support of this writ petition, contended with reference to the statements made in paragraphs 5 to 7 and 11 of the writ petition that no opportunity of hearing having been given to the petitioner before passing of the impugned order, which has not been denied by the respondents by filing any counter-affidavit, this writ petition be allowed. He also points out that pursuant to the interim order dated 14.6.1993 the operation of the impugned order was kept in abeyance till further orders of this Court.

3. Sri P.K. Bisaria, learned standing counsel on behalf of the respondents, in reply, takes up a stand that there appears to be substance in the contentions of Sri Ashok Bhushan.

4. On 14.6.1993, the learned vacation Judge, before whom this writpetition was placed, had passed the following order :

'Notices meant for respondent Nos. 1 and 2 are accepted by learned standing counsel. He prays for and is allowed one month's time to file counter-affidavit.

List this petition for admission in the last week of August. 1993.

Till further orders of this Court, the operation of the impugned orders dated 17.5.1993 (Annexure-2 to the writ petition) shall remain in abeyance.'

5. This writ petition has been placed before us today and taken up.

6. Paragraphs 5 to 7 and 11 of the writ petition reads thus :

'5. That on a perusal of aforesaid order, it appears that opposite party No. 1 passed the order of suspension on the basis of allegation made by fictitious

person Sri Pradeep Kumar, alleging that in certain sale deeds the plots are mentioned in place of house. It is categorically submitted that there is no person in the name of Pradeep Kumar who has made any complaint or allegation of any kind whatsoever.

6. That the District Registrar failed to consider the provisions of sub-rule (2) of Rule 16 of the said rules, which provides that no order of suspension of licence shall be passed, unless an opportunity of hearing shall be given for the defence. In the present case, before the order of suspension, no opportunity of hearing was given to the petitioner.

7. That even otherwise there are no allegation which are contrary to the condition mentioned in the Rule 16 of the said Rules. In any case the petitioner cannot be responsible for such acts as alleged and stated in the order. It is submitted that it is only the purchaser who can be held responsible for the concealment of such facts.'

* * * *

'11. That the petitioner submits that the action of the opposite party in suspending the licence of the petitioner is totally baseless and flimsy grounds and without affording any opportunity of hearing, an action which is violative of principles of natural justice and fair play.'

Our Findings :

7. Rule 16 of the Rules, 1977, as it stands amended by (Second Amendment) Rules, 1981, reads as follows :

'Rule 16.--In the Uttar Pradesh Document Writers Licensing Rules. 1977, for the existing Rule 16 the following shall be substituted :

16. Cancellation of licence.--(1) The Licensing Authority may at any time suspend or cancel the licence of a document writer on any of the following grounds, namely :

(a) breach of any of these rules or conditions of licence :

- (b) failure to attend the registration office for a continuous period exceeding one month without the permission of the Licensing Authority or the Registering Officer ;
- (c) for being guilty of participation in any illegal transaction or unfair dealings with public servants in the registration Departments ;
- (d) for being found negligent or inefficient in his work or dishonest in his dealings with the public ;
- (e) for being convicted by a Court for an offence involving moral turpitude ; and
- (f) for any other sufficient cause to be recorded in writing.

(2) No order under sub-rule (1) shall be passed, unless the document writer has been given an opportunity of being heard in his defence.'

7.1. A perusal of Rule 16 (2) aforesaid shows that no order suspending or cancelling the licence of a document writer on any of the grounds enumerated therein can be passed unless the document writer in question has been given an opportunity of being heard in his defence. 7.2. From a perusal of the impugned order also, it does not appear that any opportunity was given to the petitioner to have his say in his defence. Accordingly, we are of the view that there has been violation of principles of natural justice as contained in Rule 16 (2) of the Rules aforementioned.

The Result :

8. For the reasons aforementioned, we allow this writ petition, quash the impugned order and remit back the matter for fresh consideration by the authority concerned in accordance with law.

8.1. However, in the peculiar facts and circumstances of this case we make no order as to costs.

9. The office is directed to handover a copy of this order within two weeks to Sri P.K. Bisaria, learned standing counsel, for its intimation to and follow up action by the authority concerned.

