

Satya Oil Traders Vs. State of U.P. and Others

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SooperKanoon Citation : sooperkanoon.com/486116

Court : Allahabad

Decided On : Dec-10-1998

Reported in : 1998(4)AWC646

Judge : D.S. Sinha and ;B.K. Sharma, JJ.

Acts : Uttar Pradesh Kerosene Control Order, 1962

Appeal No. : C.M.W.P. No. 13250 of 1990

Appellant : Satya Oil Traders

Respondent : State of U.P. and Others

Advocate for Def. : S.C.

Advocate for Pet/Ap. : Shyamji Gaur, ;J.S. Kasyap and ;P.N. Tripathi, Advs.

Judgement :

D. S. Sinha and B. K. Sharma, JJ.

1. Heard Sri P. N. Tripathi, learned counsel appearing for the petitioner and Sri Vinay Malviya, learned Standing Counsel representing the respondents.

2. The petitioner is a licensee under the provisions of U. P. Kerosene Control Order, 1962. By the order dated 26th April, 1990,a copy whereof is Annexure I to the petitioner, the licence of the petitioner has been suspended on the order of the

District Magistrate dated 24th April, 1990.

3. In paragraph 3 of the petition, it is asserted that the order of the District Magistrate dated 24th April, 1990. was never served on the petitioner despite repeated requests made to the authorities concerned. In paragraph 8 of the petition, it is asserted that neither any charge-sheet nor any show-cause notice was served on the petitioner before passing the order of suspension.

4. On 30th May, 1990, the Court granted a month's time to the respondents to file counter affidavit, but the respondents failed to file the counter-affidavit. Therefore, on 17th July, 1990, the Court admitted the petition and granted interim order directing the District Supply Officer and District Magistrate, the respondents No. 2 and 3, not to give effect to the impugned order of suspension dated 26th April, 1990.

5. We are now in the year 1998. which is also about to come to an end. No counter affidavit has been filed even after the lapse of more than 8 years counted from the date of admission, i.e.. 17th July, 1990. Under the circumstances, the Court has no choice but to accept the averments made in the petitioner that the order of the District Magistrate dated 24th April, 1990. on the basis of which the Impugned order of suspension dated 26th April, 1990, was passed was never served on the petitioner, and that the suspension order was passed without serving on the petitioner any charge sheet or show-cause notice. Under paragraph 11 of U. P. Kerosene Control Order, 1962, no order of suspension can be passed unless the licensee has been given reasonable opportunity of submitting his explanation. Admittedly, no opportunity has been given to the petitioner before suspending the licence, therefore, the suspension of the licence of the petitioner is contrary to law and cannot be upheld.

6. In the result the petition succeeds and is allowed. The Impugned order of suspension dated 26th April, 1990, Annexure I to the petition is quashed. There is no order as to costs.