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Court : Madhya Pradesh

Decided On : Jan-06-1983

Reported in : 1987(11)ECC109

Judge : G.P. Singh, C.J. and; Faizanuddin, J.

Appeal No. : M.P. 196/1980

Appellant : Shiv Kumar Soni

Respondent : Collector, Central Excise and ors.

Disposition : Petition dismissed

Judgement :
ORDER

G.P. Singh, C.J.

1. The petitioner applied for grant of a licence under Section 27 of the Gold (Control) Act, 1968. The petitioner's application was rejected by the Assistant Collector, Central Excise, Bhopal, by order dated 29th September, 1978. The petitioner went up in appeal and the appeal was dismissed by the Collector, Central Excise, Indore, in October 1979. The petitioner then filed this petition under Article 226 of the Constitution for quashing of the aforesaid two orders.

2. Section 27(6) of the Act provides that no application for the issue of a licence to commence or carry on business as a dealer shall be granted unless the Administrator, having regard to such matters as may be prescribed in this behalf and after making such inquiry in respect of those matters as he may think fit, is satisfied that the licence should be issued. Rules relating to Section 27 were made by notification No. 2706 dated 3rd July, 1969. These rules are known as the Gold Control (Licensing of Dealers) Rules, 1969. Rule 2 of these rules specifies the matters which the Administrator must keep in his mind while disposing of an application for a licence. Clause (f) of Rule 2, which is relevant, reads as follows:

(f) the need to increase the number of licensed dealers in the city or town in which the dealer intends to carry on business or where the applicant intends to carry on business in a village, the need to increase the number of licensed dealer in the district within which such village is situated, having regard to--

(i) the number of licensed dealers existing in such city, town or district, as the case may be; and

(ii) the demand for ornaments which is likely to arise in such city, town or district, such demand being estimated on the basis of the turnover of the licensed dealers, existing therein, for a period of three years preceding the year in which such application for the issue of licence has been made and such turnover shall be determined on the basis of the accounts and returns submitted under the law for the time being in force in relation to gold:

3. The petitioner's application was for getting a dealership licence to carry on business in the town of Chandameta. The appellate order of the Collector goes to show that the petitioner's application was rejected having regard to the fact that there were already two dealers in Chandameta and that a perusal of the turnover of the preceding three years of these dealers revealed that the same was low and had been on the decline. The ground on which the petitioner's application was dismissed cannot be said to be irrelevant. The petitioner's application was properly considered and rejected on relevant grounds which are mentioned in Rule 2. We cannot, therefore, interfere in this matter under Article 226.

4. Learned Counsel for the petitioner, however, argued that the demand for gold ornaments has now considerably increased in Chandameta and, therefore, the petitioner should be granted the licence. There is no material before us in support of this argument. In case, however, the demand for gold ornaments has really increased and there has been a change in circumstances, it would be open to the petitioner to make a fresh application for licence which would be considered on merits.

5. The petition is dismissed, but without any order as to costs. The security amount be refunded to the petitioner.

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