

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 11604 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy of the judgment ?
- 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
- 5 Whether it is to be circulated to the civil judge ?

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HASMUKH J. SOMESHWAR - Petitioner(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MRS SANGEETA N PAHWA for Petitioner(s) : 1,
 MR LR PUJARI GOVERNMENT PLEADER for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 28/12/2007

ORAL JUDGMENT

1.0 By way of this petition, the petitioner has prayed to quash and set aside the order

passed by the respondent No.2 dated 16.02.2003-04.

2.0 The brief facts of the case are that the petitioner is residing at Morvi. In the year 1988, the petitioner was issued license to do business as Stamp Vendor and Bond Writer, on yearly renewal basis. The license of the petitioner was lastly renewed by the Authority for a period of one year i.e. from 01.04.1991 to 31.03.1992.

2.1 On 12.03.1992, the petitioner made an application for renewal of the aforesaid license for a period of one year i.e. from 01.04.1992 to 31.03.1993. However, the said application remained undecided by the respondent-Authority. The petitioner, therefore, filed a suit being Regular Civil Suit No.18 of 1993 and obtained interim injunction and continued his business as Stamp Vendor and Bond Writer.

2.2 On 02.03.1993, the petitioner made another application for renewal of the license for a period of one year i.e. from 01.04.1993 to 31.03.1994 and that application also remained undecided by the respondent-Authority. The petitioner, hence, again preferred another suit being Civil Suit No.66 of 1993 before the learned Civil Judge (S.D.), Morvi along with an application Exhibit-5 praying for interim injunction. The learned Civil Judge vide order dated 22.06.1993 passed below Exhibit-5 directed the respondent-Authority to decide the application of the petitioner dated 02.03.1993. Thereupon, the respondent-Authority rejected the application of the petitioner dated 02.03.1993.

2.3 Being aggrieved with the order dated 22.06.1993, the petitioner approached this Court by way of Special Civil Application No.6480 of 1993. The aforesaid application was disposed of by this Court vide order dated 27.08.2003 on the ground that the said application had become

infructuous since the license was issued only for a period of one year.

2.4 The petitioner, thereafter, gave a representation to the respondent-Authority to decide his application for renewal of license dated 02.03.1993 which came to be rejected by the respondent-Authority vide order dated 16.02.2003-04. Hence, the present petition.

3.0 Mrs. Pahwa, learned Advocate for the petitioner has submitted that the respondent No.2 has committed an error by not renewing the license of the petitioner on the ground that the application of the petitioner was dismissed by the High Court and that the license in question was issued for a period of one year only.

3.1 She has further submitted that since the petitioner had made fresh applications along with requisite fees and 'No Objection Certificates' issued by the respondent-Authority every year

after investigation, respondent No.2 ought not to have rejected the application of the petitioner for renewal of the license.

3.2 She has further submitted that respondent No.2 ought to have appreciated the fact that the renewal of license is a right if no irregularity is found whereas granting of fresh license is not a right.

4.0 On the other hand, learned AGP has submitted that since the license in question was issued for a period of one year only and on yearly renewal basis, respondent No.2 has rightly rejected the application of the petitioner for renewal of the license and no interference is called for by this Court.

5.0 Heard learned Counsel for the parties and perused the documents placed on record. In the case on hand, it is not in dispute that the license in question issued by respondent No.2 to

the petitioner in the year 1988 was valid for a period of one year only and that the same had to be got renewed by the petitioner at the end of each financial year. The procedure for renewing the license is that at the end of each financial year, the concerned Authority carry out investigation to find out as to whether the conditions laid down while issuing license to the licensee are being complied with by the licensee or not. On completion of the investigation, the Authority issues 'No Objection Certificate' to the licensee and on the basis of that certificate the license of the licensee is renewed.

5.1 In respect of the license issued to the petitioner also the investigation was done by the concerned Authority each year and the same was renewed up to 31.03.1992. However, when the petitioner made an application for renewal of the said license for a period of one year i.e. from 01.04.1993 to 31.03.1994, the same was rejected by the Authority on the ground that the

petitioner had committed breach of relevant rules and had also mislead the general public along with his father against the interest of the Government.

5.2 The petitioner, therefore, challenged the aforesaid order passed by respondent No.2 by way of Special Civil Application No.6480 of 1993 and obtained status quo against that order. Hence, it is evident that by virtue of the interim relief granted by this Court only, the petitioner was supplied stamps etc. and was allowed to continue his business as Stamp Vendor and Bond Writer. Thereupon, the said petition came to be disposed of by this Court(Coram: B.J. Shethna,J.)vide order dated 27.08.2003 on the ground that the said petition had become infructuous since the period for which the renewal of the license was sought by the petitioner was already over. With the disposal of the aforesaid petition, the interim relief by way of status quo granted by this Court stood

automatically vacated and the order passed by respondent No.2 became final. So far as the renewal applications made by the petitioner dated 04.08.2003 and 03.12.2003 are concerned, they were rejected by the Authority since no specific period was mentioned in those applications for which the license was sought to be renewed whereas application dated 24.12.2003 was rejected by respondent No.2 since the renewal was sought with the retrospective effect.

5.3 The law on the aspect of the renewal of the license is very clear, the license issued to the petitioner could be renewed for a period of one year only at a time and that there is no provision to renew the said license with retrospective effect. From the record it clearly transpires that only on account of interim relief granted by this Court the petitioner was supplied stamps and was allowed to continue his business as stamp vendor. Hence, taking into consideration overall facts and circumstances of the case and

the provisions of relevant Act / Rules, I am of the opinion that respondent No.2 is justified in rejecting the application for renewal of license of the petitioner. The application, therefore, deserves to be dismissed.

6.0 In the result, the application stands dismissed. Interim relief, if any, stands vacated. Rule is discharged.

(M.D. Shah,J.)

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