

- B E F O R E -
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SOUMITRA SAIKIA

For the Appellants : Mr. B.C. Das, Senior Advocate.
Ms. I. Das, Advocate.

For the Respondents : Mr. R.K. Borah, Additional Senior
Government Advocate, Assam for
respondent Nos.1 to 4.

Date of Hearing : 02.03.2023.

Date of Judgment & Order : **6th April, 2023.**

JUDGMENT & ORDER

[Soumitra Saikia, J.]

Heard Mr. B.K. Das, learned senior counsel, assisted by Ms. I. Das, learned counsel appearing for the appellants. Also heard Mr. R.K. Borah, learned Additional Senior Government Advocate, Assam, appearing for the respondents No.1 to 4.

2. This writ appeal is directed against the judgment & order dated 25.01.2022 passed by the learned Single Judge in WP(C) No.4612/2017 whereby, the writ petition filed by the Stamp Vendors Association was dismissed. Being aggrieved, the present writ appeal has been filed.

3. The appellant No.1 is a registered Association of Licensed Stamp Vendors in the District of Dhubri in Assam. The Association comprised of 39 numbers of Stamp Vendors, out of which 12 Vendors are operating at the Dhubri Court Campus; 6 Vendors are operating at the Sub-Registrars Office, Dhubri; 11 Vendors are operating at the

Campus of Sub-Divisional Officer (Civil), Bilasipara; 4 Vendors are operating at Golakganj Sub-Registrar's Office and 1 Vendor each at Agomoni Circle; Bilasipara Civil; SRO, Bilasipara; South Salmara and Hatsingimari. The appellants No.2 and 3 are the President and Secretary, respectively, of the appellant No.1 Association. The appellant Association on 29.06.2006 submitted a representation before the Deputy Commissioner, Dhubri, i.e. the respondent No.3, seeking increase of the discount/commission and requesting for stoppage of indiscriminate grant of license to other persons so that the existing Vendors can carry their business smoothly and earn a moderate income to maintain their family.

4. The then Deputy Commissioner, Dhubri, on the basis of the representation submitted by the appellant Association directed the Land Settlement Section not to take any initiative to issue new Vendor licenses but no action thereafter was taken. During the tenure of the new incumbent to the Office of the Deputy Commissioner, Dhubri, some more Vendor licenses were issued. Being aggrieved, the appellant Association filed another representation dated 08.01.2014 before the Deputy Commissioner, Dhubri with a request not to issue more licenses. Thereafter meetings were held between the members of the appellant Association, the Deputy Commissioner and other officials of the State. However, inspite of assurances given by the Deputy Commissioner,

Dhubri (respondent no.3), fresh licenses were issued to the private respondents.

5. Being aggrieved, a writ petition being WP(C) No.681/2014 was filed before this Court seeking a direction to the respondent No.3 not to give effect to the fresh licenses granted to various persons and/or to refrain from issuing Vendor Code numbers. This Court by order dated 12.02.2014 disposed of the said writ petition with a direction to the respondent No.3 to take on record the representation dated 08.01.2014 submitted before him by the appellant Association and thereafter to dispose of the same after hearing all parties as expeditiously as possible. It was further directed that issuance of Vendor Code numbers to the private respondents in the said writ petition shall be subject to the outcome of the exercise to be carried out in terms of the order.

6. However, inspite of the directions issued by this Court vide order dated 12.02.2014 passed in WP(C) No.681/2014 and the grievances ventilated by the appellant Association before the respondent No.3, order dated 31.05.2014 came to be issued. By the said order, the respondent No.3 justified the issuance of fresh licenses to some other persons as they were found to be very needy and genuine persons who were unemployed and unable to find any source of livelihood. It is also stated in the said order that the grievances of the members of the appellant Association were found to be not plausible as the licensing

authority issued such licenses in the larger interest of the society and the grievances of the appellant Association will be given due reconsideration in the event of any such application for grant of Vendor Licenses are considered in future. The appellant Association being aggrieved by the order dated 31.05.2014 approached this Court again by way of WP(C) No.2926/2014 assailing the order dated 31.05.2014 issued by the respondent No.3.

7. This Court, initially, by order dated 11.06.2014, granted *status quo* among the parties. The said writ petition was finally disposed of by judgment & order dated 14.03.2017 whereby, the order dated 31.05.2014 was interfered with and set aside. By the said judgment & order, the respondent No.3 was directed to dispose of the representation dated 08.01.2014, after hearing the parties, within a period of 6(six) weeks from the date of the judgment & order. The respondent No.3 thereafter vide order dated 15.07.2017 again rejected the claims of the appellant Association without considering their grievances raised.

8. Being aggrieved, writ petition being WP(C) No.4612/2017, was filed assailing the order dated 15.07.2017 passed by the respondent No.3. The learned Single Judge rejected the contentions of the appellant Association as writ petitioners and dismissed the said writ petition by the impugned judgment & order dated 25.01.2022 by holding that the petitioner Association or its

members cannot be said to be person aggrieved as no legal injury has been caused to the petitioner Association.

9. Before us, it was urged that the respondent No.3 had been issuing fresh Stamp Vendor Licenses indiscriminately without first assessing the necessity of issuing fresh vendor licenses within the district of Dhubri. It was also urged that the respondent No.3 had issued these fresh Stamp Vendor Licenses without taking into account the provisions of the Assam Stamp Manual. It was further urged that the appellant Association being a registered Association, they are directly affected by the indiscriminate issuance of fresh licenses to Stamp Vendors contrary to the provisions of the Assam Stamp Manual and, therefore, the finding of the learned Single Judge that they were not person aggrieved is not a correct interpretation of law. It was urged that the learned Single Judge did not take into account all the attending facts and circumstances prior to rendering the impugned judgment & order dated 25.01.2022. It was also urged that earlier this Court had directed the respondent No.3 to consider the grievances of the appellant Association and pass appropriate orders. Vide judgment & order dated 14.03.2017 passed in WP(C) No.2926/2014, this Court had interfered with and set aside the earlier order dated 31.05.2014 passed by the respondent No.3 and, therefore, the finding of the learned Single Judge that they were not person aggrieved is wholly incorrect. It is submitted that in that view of the matter, the impugned judgment dated 25.01.2022 passed by the

learned Single Judge should be interfered with and set aside and the order passed by the respondent No.3 should also be interfered with and a further direction should be issued to the respondent No.3 not to issue fresh licenses to Vendors contrary to the provisions of the Assam Stamp Manual.

10. Per contra, Mr. R.K. Borah, learned Additional Senior Government Advocate, Assam submits that there is no infirmity in the impugned judgment & order of the learned Single Judge as the order of the Deputy Commissioner has been issued after giving due consideration to the grievances raised by the appellant Association.

11. Learned counsel appearing for the private respondents submits that the private respondents are unemployed persons and are in need of some means to earn their livelihood and to support their families. That apart, there is a steady demands of Stamp Papers and Stamps within the district of Dhubri and, therefore, issuance of licenses to the private respondents are justified in public interest.

12. Learned counsels have been heard. Pleadings on record as well as the judgment of the learned Single Judge have been carefully perused.

13. At the outset, it is necessary to refer to the provisions of the Assam Stamp Manual, which is referred to by the appellants and the provisions of which have been stated to have not been adhered to by the respondent No.3 while issuing/granting the licenses to the vendors.

14. A perusal of the provisions of the Assam Stamp Manual reveals that various procedures have been prescribed for maintaining and issuance of Stamps, registers to be maintained for sale of Stamps, etc. In Clause 20, person who may be issued licenses as Stamp Vendors is prescribed. Mr. B.C. Das, learned senior counsel for the appellants has referred to the said Clause 20 to submit that at District and Sub-Divisional Headquarters where Vendors are likely found, the number of such Vendors should be limited so as to allow moderate income from sale of Stamps being derived by each. It is the contention of the appellants that this prescription under the Stamp Manual has not been followed by the respondent No.3 while issuing fresh licenses. Although the grievance of the appellant Association is that licenses for Stamp Vending are issued by the respondent No.3 without following the prescription under the Assam Stamp Manual, no specific instance or reference has been brought to the notice of this Court by the appellants to support their contention that the authorities have flouted the norms and procedure prescribed under the Manual.

15. On the contrary, the respondents contend that issuance of licenses for Stamp Vendors are only in strict prescription of the provisions mentioned in the Assam Stamp Manual. The Election Officer, Dhubri and the Executive Magistrate, under the orders of the Deputy Commissioner, is entrusted with the responsibility to consider any application for grant of licenses to Stamp Vendors. No such contention has also been made by the appellants that grant of fresh licenses as Vendors to the other individuals have resulted any inconvenience and difficulties to the members of the public or sale of any unauthorized Stamp Papers or Stamps. The only contention before the learned Single Judge as well as before this Court is that because of issuance of fresh licenses to the private respondents, there is every likelihood of affecting the income as well as livelihood of the members of the appellant Association. It is not the case of the appellant Association that by virtue of issuance of fresh licenses to the private individuals/private respondents, the appellants have been deprived of their right to livelihood or that their Stamp Vending licenses have been curtailed or cancelled by the respondent authorities. No such case is projected before the learned Single Judge or before this Court. Any reference to the earlier orders of this Court disposing of the writ petition filed by the petitioner Association to contend that they are person affected, cannot be accepted in view of the fact that the earlier orders passed by this Court did not decide the issues on merit rather it was disposed of

directing the respondent authorities to dispose of the representations preferred by the petitioner/appellant Association after giving adequate opportunity of being heard. The learned Single Judge had elaborately dealt with the issue as to whether the members of the appellant Association had suffered any legal injury so as to make them amenable prayer and consequent grant of a writ of certiorari.

16. The law laid down by the Apex Court in ***Jasbhai Motibhai Desai -Vs- Roshan Kumar, Haji Bashir Ahmed & Ors.***, reported in ***1976 (1) SCC 671*** has been referred to and relied upon by the learned Single Judge which has succinctly laid down the principles when the writ of certiorari can be issued. The above principle has been restated by the Apex Court again in *Ayaaubkhan Noorkhan Pathan Vs. State of Maharashtra and Ors.*, reported in *(2013) 4 SCC 465*. The Apex Court after examining several Judgments held that only a person who has suffered, or suffers from *legal injury* can challenge the act/action/order, etc. in a Court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the authorities. It is held that there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can, of course, enforce the performance of a statutory duty by a public body, using its

writ jurisdiction at the behest of a person, provided such person satisfies the Court that he has a legal right to insist on such performance. The Apex Court held that the existence of such a right is a condition precedent for invoking the writ jurisdiction of the courts and it is implicit in the exercise of such extraordinary jurisdiction that the relief prayed for must be one to *enforce a legal right*. The *legal right that can be enforced* must ordinarily be the right of the appellant himself, who complains of infraction of such a right and approaches the Court for relief . A "legal right", means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, "person aggrieved" does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must, therefore, necessarily be one whose right or interest has been adversely affected or jeopardized.

17. In the facts and circumstances of the present proceedings, the appellant association have not been able to demonstrate that it has any legally enforceable right, non-implementation of which has affected its rights and privileges guaranteed under any statute or law as such. The issuance of licence to persons who are not members of the appellant associations cannot be said to have affected any rights of the members of the appellant association in the facts and circumstance of the present proceedings. In view of the discussions above, we find no

reason to disagree with the views and conclusions reached by the learned Single Judge. We agree with the findings and conclusions reached by the learned Single Judge that the petitioner/ appellant Association cannot be considered to be a person aggrieved in respect of licenses being granted/issued to the private respondents as Stamp Vendors.

18. The writ appeal is devoid of merit and the same is accordingly dismissed. No order as to costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant