I see no force in this petition which fails and is dismissed with costs.

K.S.K.

CIVIL MISCELLANEOUS

Before R. S. Narula, J.

RATTAN CHAND,—Petitioner

versus

THE DEPUTY COMMISSIONER, GURDASPUR AND ANOTHER,—*Respondents*

Civil Writ No. 589 of 1966

July 21, 1966

Registration Act (XVI of 1908)—S. 69(1)(bb)—Punjab Document Writers Licensing Rules (1961) *framed under—Rule* 15—*Whether* ultra vires—*Order giving no reasons—Whether liable to be quashed—Order suspending licence for a period extending beyond its expiry—Whether can be made.*

Held, that rule 15 of the Punjab Document Writers Licensing Rules, 1961, is perfectly valid and is neither *ultra vires* Article 14 of the Constitution nor otherwise unconstitutional. This rule clearly prescribes the authorities in whom the power to punish is vested. The rule does not leave the grounds on which a person can be punished to their sweet will or unfettered discretion. The authority to punish is only for breach of any of the conditions of the licence which have themselves been set out in clause 'a' to 'o' of rule 14 of the Punjab rules. Rule 15 makes it incumbent on the punishing authority to afford an opportunity of being heard before punishing the defaulter. The rule goes to the length of prescribing two possible punishments which can be inflicted on the accused petition-writer. Nothing more appears to be required for making a rule to conform to the principles of natural justice, and to save it from being violative of the rule of law or the equal protection of laws. Nor can rule 15 be said to be violative of the rule of law because no provision for any appeal or revision being filed against the order imposing punishment under that rule has been made either in the Punjab rules or in the Act.

Held, that an order of punishment passed under rule 15 of the said Rules is not liable to be set aside on the ground that the findings recorded by the punishing authority against the petitioner are not supported by any reasons for an order which is final and against which no appeal or revision is provided need not be made a speaking order by quasi-judicial or administrative Tribunals in every case.

Held, that the maximum period for which a petition-writer's licence can be suspended under rule 15 of the Punjab rules, is the period for which the licence

is held by the defaulter, and any order for suspending a licence during a period for which no licence has been granted is without jurisdiction and outside the scope of rule 15.

Petition under Articles 226 and 227 of the Constitution of India, praying that a writ of certiorari, mandamus *or any other appropriate writ, order or direction be issued calling for the records of respondents relating to the impugned orders, and after a perusal of the same the impugned orders be quashed.*

S. S. MAHAJAN, ADVOCATE, for the Petitioner.

C. L. LAKHANPAL, ADVOCATE, *for the* ADVOCATE-GENERAL, for the Respondents.

ORDER

NARULA, J.—Rattan Chand, petitioner claims to have been working as petition-writer since 1932. He duly obtained a licence under rule 12 of the Punjab Document Writers Licensing Rules 1961 (hereinafter called the Punjab rules), which were framed by the Inspector-General of Registration, Punjab, in exercise of powers conferred by section 69(1)(bb) of the Indian Registration Act, 16 of 1908. On June 13, 1963, respondent No. 2 served a 'Show-cause' notice on the petitioner charging him with violation of the conditions of licence contained in rule 14(d) and 14(g) of the above-said Punjab rules on the allegation that the petitioner had failed to endorse on a document scribed by him the fee charged by the petitioner and on the further allegation that the petitioner had got the document in question registered as a release deed, though it should have been described as a conveyance deed, and an additional stamp duty of Rs. 15 paid thereon. Petitioner submitted his detailed reply to the 'Show-cause' notice. By order, dated November 23, 1965, the Registrar, Gurdaspur, ordered the suspension of the petition-writing licence of the petitioner for one year on both the above-said counts, under rule 15 of the Punjab rules. The petitioner made a representation against the said order to respondent No. 2, which was again sent to the first respondent, who rejected the same by his order, dated March 8, 1966 (Annexure 'E'). It is the above-said order of punishment and order of rejection of his revision petition that the petitioner has impugned in these proceedings, under Article 226 of the Constitution, It is firstly contended by Mr. S. S. Mahajan the learned counsel for the petitioner that rule 15 is violative of the rule of law, as no provision for any appeal or revision being filed

against the orders imposing punishment under that rule has been made either in the Punjab rules or in the Act. I find no force in this argument. So far as I am aware, it has never been held that a statutory rule conferring on a Tribunal or authority the power to punish a licensee for violation of conditions of his licence, is unconstitutional and invalid, merely because no appeal has been provided against it. The learned counsel relied on the judgment of the Supreme Court in *Messrs Dwarka Prasad-Laxmi Narain* v. *State of Uttar Pradesh* (1) and claimed that rule 15 confers unfettered jurisdiction on the Registrar and/or the Inspector-General of Registration to punish a defaulter, and was, therefore, invalid. The argument appears to be wholly mis-conceived. Rule 15 of the Punjab rules reads as follows:—

"15. Penalty for breach of conditions of licence:—

(1) The Licensing Authority or the Inspector-General of Registration may, after giving the document-writer an opportunity of being heard, suspend his licence or cancel the same if he is found to have committed a breach of any of the conditions of his licence.

(2) Without prejudice to the provisions of sub-rule (1) the Licensing Authority or the Inspector-General of Registration may, on an application made to it or him in writing, get the fee charged by a document-writer in excess of the prescribed scale refunded to the applicant.

(3) Any action taken under sub-rule (1) and sub-rule (2) shall be recorded on the licence by the Licensing Authority."

This rule clearly prescribes the authorities in whom the power to punish is vested. The rule does not leave the grounds on which a person can be punished to their sweet will or unfettered discretion. The authority to punish is only for breach of any of the conditions of licence. The conditions of the licence have themselves been set out in clauses 'a' to 'o' of rule 14 of the Punjab rules. Rule 15 makes it incumbent on the punishing authority to afford an opportunity of being heard before punishing the defaulter. The rule goes to the length of prescribing two possible punishments which can be inflicted on the accused petition-writer. Nothing more appears to be required for making a rule to conform to the principles of natural justice, and to save it from being violative of the rule of law or the equal protection of laws. I, therefore, hold that rule 15 of the Punjab

(1) A.I.R. 1954 S.C. 224.

rules is perfectly valid, and is neither *ultra vires* Article 14 nor otherwise unconstitutional. It was then faintly contended by the learned counsel for the petitioner that rule 15 is unreasonable, because it does not limit the time within which action should be taken under it. The argument of the learned counsel is that the case against him remained pending with the authorities for several years, and that any rule which permits this, should be declared void. I think this argument is frivolous. There is no complaint about any delay in the commencing of action against the petitioner. The grievance is against the delay caused in the disposal of the complaint. That may be due to various administrative reasons and it is not for this Court to interfere with the order on that ground. I do not find any such infirmity in rule 15 as is sought to be made out by the counsel for the petitioner.

The counsel then argued that though he inadvertently omitted to comply with the requirements of rule 14(d) on account of rush of work no loss has been caused to the Government on account of violation of rule 15(g), even if it is presumed to have been violated as the petitioner has already deposited a sum of Rs. 15 in the Government treasury under protest. I regret to say that this argument is again mis-conceived. The petitioner has been punished for violation of two conditions of his licence. He has admitted his fault in respect of one, though he claims to be exonerated from liability to punishment for that default on account of inadvertence. The requirement of rule 14(g) is very salutary and fixes the responsibility of petition-writers to see that the documents scribed by them are written on stamp-papers of proper value and that the documents are classified according to their substance.

The decision of the authorities on the question of violation of the rule is final so far as these proceedings are concerned, unless there is some error apparent on the face of that decision. I am unable to find any such error in the instant case. The decision is within jurisdiction, and cannot be disturbed by me on merits in these proceedings. That being so, the payment by the petitioner of the sum of Rs. 15 in question, has no effect on the merits of the controversy.

It is then urged by the counsel that the findings recorded by the punishing authority against the petitioner, are not supported by any reasons. If an appeal or a revision had been provided against the order of punishment, I could expect the order being supported by

reasons, and might have held that an order which is not so supported, is liable to be set aside, but it is difficult to hold that an order which is final and against which no appeal or revision is provided, must be made a speaking order by quasi-judicial or administrative Tribunals in every case. I do not, therefore, find any infirmity of this type in the impugned orders.

I, however, find great force in the last contention raised by Mr S. S. Mahajan. This point has not been taken up in the writ petition, but after hearing the learned counsel for the parties, I allowed this question to be raised as it is a pure question of law going to the root of the jurisdiction of the punishing authorities, which can be decided on admitted facts of the case. Learned counsel has contended that the respondents had no jurisdiction to suspend the licence of the petitioner beyond the 31st of December, 1965, as the only licence which the petitioner was holding at that time was valid up to that date. The fact that the licence of the petitioner, which was held by him on the date on which the impugned order was passed was valid only up to the end of the calendar year, has not been and indeed could not be disputed. Rule 12 of the Punjab rules reads as follows:—

> "12. *Validity of licence.*—A licence issued under these rules shall be valid till the 31st December of the year in which the same is issued and shall be renewable on payment of a fee of rupees five by making an application for the same to the Licensing Authority at least fifteen days before the date of expiry of the licence:
>
> Provided that the Licensing Authority may, if satisfied that the licensee was prevented from applying for renewal for sufficient cause, entertain an application for renewal of licence made after the expiry of the prescribed period and renew the same."

Once it is not disputed that the only licence under the Punjab rules held by the petitioner at the relevant time, was the licence for the period ending 31st December, 1965, it was that licence alone which could be revoked or suspended by the competent authority under rule 15 of the Punjab rules. The authorities did not choose to revoke the licence. Its suspension could not be for a period beyond its life. In my opinion, the maximum period for which a petition-writer's licence can be suspended under rule 15 of the Punjab rules

is the period for which the licence is held by the defaulter, and any order for suspending a licence during a period for which no licence has been granted is without jurisdiction and outside the scope of rule 15. I accordingly hold that the order of respondent No. 1, dated November 23, 1965 (Annexure 'C'), in so far as it purports to suspend the licence of Rattan Chand, petitioner, for the period beyond 31st December, 1965, is void and without jurisdiction.

This writ petition is, therefore, partially allowed. The validity of the impugned order is upheld only for the period ending 31st December, 1965, and the impugned orders in so far as they purport to suspend the petitioner's licence for the period 1st January, 1966, to 22nd November, 1966, are set aside and quashed. In the circumstances of the case, there will be no order as to costs.

B.R.T.

APPELLATE CIVIL

Before S. B. Capoor and H. R. Khanna, JJ.

P. C. JAIRATH,—*Appellant*

versus

MRS. AMRIT JAIRATH,—*Respondent*

F.A.O. No. 40-D of 1966

July 22, 1966

Hindu Marriage Act (XXV of 1955)—S. 28—Appeals against orders passed in proceedings under the Act—How far competent—Order refusing to stay proceedings of a case under S. 10, Code of Civil Procedure—Whether appealable.

Held, that the orders under sections 24, 25 and other similar sections of the Hindu Marriage Act, 1955, are appealable under section 28 of the Act. The effect of taking an opposite view would be that no appeal would be maintainable even against the decrees granted in proceedings under sections 9 to 13 of the Hindu Marriage Act. Those decrees would not answer to the definition of the term "decree' as given in the Code of Civil Procedure. Decrees under that Code are granted in regular suits instituted by the filing of plaints and not by the filing of petitions. The language of section 28 also makes it clear that decrees under the Hindu Marriage Act are not decrees under the Code of Civil Procedure, for