

(1999) 12 PAT CK 0112
In the Patna High Court
Case No : C.W.J.C. No. 6792 of 1999

Akhilesh Kumar

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 16-12-1999

Acts Referred:

Citation : (2000) 4 PLJR 204

Hon'ble Judges : S.K. Katriar, J

Bench : Single Bench

Advocate : Dhurub Narayan, Bindhyachal Singh, for the Appellant; K.P. Yadav, for the Respondent

Final Decision : Dismissed

Judgement

S.K. Katriar, J.—Heard learned counsel for the parties. Before I deal with the merits of the matter, I would like to dispose of the amendment application filed by the petitioner on 30.07.1999, seeking amendment for the pleadings. He seeks permission to challenge the validity of the order contained in Memo No. 649, dated 22.06.1999 (Annexure-12), whereby the petitioner's appointment as collecting agent has been terminated, thereby cutting short the contract which was to expire on 31.03.2000. Having heard learned counsel for the parties on this issue, I allow this application. All the annexure of this interlocutory application including Annexure-12 will form part of the writ petition with the liberty to impugn their validity.

2. Learned counsel for the petitioner submits that pursuant to a policy decision, the petitioner was appointed as collection agent for an area between Saguna More (Danapur) to a particular point on Beily Road. The agreement between the parties is evidenced by Annexure-2 for the period 01.04.1999 to 31.03.2000. According to the petitioner, there was a change in the policy and it was decided by the State Government to terminate the appointment of all the collecting agents in Bihar forthwith. Therefore, show- cause notice dated 19.07.1999 (Annexure-10), was issued to the petitioner calling him upon to show cause as to

why his appointment as collecting agent be not terminated on account of the various irregularities committed by him. The petitioner had shown cause on 21.07.1999 (Annexure-11). On consideration of all the materials on record including the cause shown by him, the impugned order dated 22.07.1999 was passed vide Annexure-12.

3. While assailing the validity of the impugned action, learned counsel for the petitioner submitted that the impugned action is arbitrary and has been caused on account of reversal of policy on the part of the State Government regarding the mode and manner of collection of market fee. The respondent authorities could have waited till 31.03.2000, which would have prevented cutting short the agreement entered into between the parties (Annexure-12). He further submits that the impugned order is also in violation of the principles of natural justice.

4. Mr. K.P. Yadav, learned counsel for the respondents, has made his own submissions countering the submission- advanced on behalf of the petitioner. He has also filed a counter-affidavit in this- case and invites my attention to the order dated 03.08.1999, passed by a learner Single Judge of this Court in C.W.J.C. No. 7101 of 1999 (Manoj Kumar vs. The Bihar State Agriculture Marketing Board, Patna and ors.) (Annexure M) whereby this Court refused to intervene with just the same impugned order relating to a different collecting agent.

5. Having considered the rival submissions, I am of the view that this petition is to be dismissed. This Court is not convinced that the impugned order has not been passed in pursuance of reverse of policy. It is manifest from the materials on record that the contract entered inter between the parties have been terminated on account of the irregularities attributable to the petitioner. Show-cause notice was issued to the petitioner, he had show cause, and on consideration of the entire materials on record, the impugned order was passed. It is manifest from a plain reading of the impugned order that the petitioner is a habitual offender. In such circumstances, the impugned order cannot be faulted on this ground.

6. Mr. K.P. Yadav, learned counsel for the respondents,- rightly submits that this writ petition is not maintainable because it relates to contractual obligations. The Supreme Court in one of its judgment had held that contractual obligation cannot be siphoned into writ jurisdiction. This aspect of the matter was considered by Humble Mr. Justice A.K. Ganguly vide Annexure-M. For the reasons stated therein with which I respectfully agree, I hold that this petition is not maintainable. However, I wish to record in consonance with this Court's order in Annexure-M, the petitioner will be entitled to file appropriate application before an appropriate forum for the redressed of his grievance. The writ petition is accordingly dismissed.