(2002) 05 PAT CK 0070

In the Patna High Court

Case No : C.W.J.C. No. 1248 of 2002

Ali Akbar APPELLANT

Vs

The State of Bihar and Others RESPONDENT

Date of Decision : 01-05-2002

Acts Referred:

Citation : (2002) 2 PLJR 731

Hon'ble Judges : R.S. Garg, J

Bench : Single Bench

Advocate : Md. Shahnawaz Ali, for the Appellant; S.S. Naiyar Hussain, for the Respondent

Final Decision : Allowed

Judgement

R.S. Garg, J.—The parties are finally heard.

2. The Petitioner filed this writ application, inter alia, submitting that he has made an application for grant of stamp vending licence for Kishanpur Sub Registry Office in the district of Samastipur in the year 1991 but since thereafter no orders have been made on his application nor any stamp vendor is being appointed or a licence is issued to any person to vend the stamps.

3. A notice was issued to the Respondents to show cause. The Respondents have filed their counter. In the counter, it has been submitted that in accordance with the instructions issued by the Board of Revenue on 11.5.1993 vide letter No. 26-2/93-159, addressed to all the District Officers wherein it is clearly mentioned that only three appointments are to be made in one year, the Respondents are making only three appointments every year in a particular district. It is further contended by them that the circular letter dated 11.5.1993 (Annexure ''A'' annexed to the counter) makes it clear that more than three appointments cannot be made in a year and as the Respondents are pressed with the demand of appointment they are unable to appoint additional stamp vendors in the Sub Registry of Kishanpur. It is also contended in the counter that from the circular of

the Board of Revenue it would clearly appear that if the average income of the stamp vendors working in a particular Sub Registry is less than Rs. 1,000/- per month then fresh appointments shall not be made nor new licences for stamp vending would be issued.

4. In paragraph 11 the following chart has been submitted to this Court for its consideration:

SI. No. Name of Places No. of Working Stamp Vendors Commission given in between the period of 1.1.99 to 31.12.99 Average monthly income Monthly income of each stamp vendor

1. S.R. Office Samastipur 23 13,42,477 1,11,873.08 4,864.04

2. S.R. Office Dalsinghsarai 14 9,21,100 7,67,758.33 5,472.73

3. S.R. Office, Kishanpur 10 7,47.280 62,273.33 6,227.33

4. S.R. Office, Rosera 17 12,42,832 1,03,569.33 6,092.31

5. S.D.O. Office, Patory 01 83,360 6,946.66 6,946.66

5. From these details it would clearly appear that in Sub Registry Office, Kishanpur as many as 10 stamp vendors are working and average monthly income of each stamp vendor is 6,227.33. If the circular of the Board of Revenue is taken in its true prospective and spirit and the monthly income of these ten persons are calculated the same would be Rs. 62,273.33 paise and for each 1000/- earning if one stamp vendor can be appointed then at Kishanpur Sub Registry Office more than two scores of the stamp vendors can be appointed.

6. The submission of the learned Counsel for the State Government/authorities that they are required to appoint only three stamp vendors in a district is not borne out from Annexure ''A''. Paragraph 1 of Annexure ''A'' (relevant portion) reads as under:

7. The circular instructions simply say that ordinarily more than three appointments shall not be made in one year. The circular does not say that three appointments are to be made in the district or in the jurisdiction of Sub Registrar. The authorities wish to introduce a particular innovation in the circular which has not been provided by the Board of Revenue. The Board of Revenue has simply said that more than three appointments are not to be made in one given year. When the Board of Revenue did not say that the appointments would be restricted to the district as a whole then any interpretation by the departmental authorities that the inhibition/restriction shall be applicable to whole of the district, would not be proper.

8. A bare perusal of the circular dated 11.5.1993 would make it clear that the Board of Revenue had given opinion considering two contingencies.

(i) in relation to average monthly income of the stamp vendor, and

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/ali-akbar-appellant-hash-the-state-o...

(ii) number of persons who can be appointed each year.

A rational interpretation would make it clear that while appointing new stamp vendors and issuing new licences the concerned authority has to take into consideration the joint effect of the two conditions provided by the Board of Revenue, i.e. the average monthly income of each stamp vendor is maintained at Rs. 1,000/- and not more than three stamp vendors are appointed in one year.

9. In the present case, it is not in dispute before me that there are no specific instructions, by the Board of Revenue that for a particular district, only three appointments are to be made. Taking a rational view I hold that the circular letter dated 11.5.1993 would mean to say that ordinarily three appointments shall be made, not more than three appointments shall be made in one Sub Registrar jurisdiction every year provided the appointment does not adversely affect the monthly average income of such stamp vendors and does not offend the policy issued by the Board of Revenue. The Respondents are required to adhere to this interpretation and start appointing stamp vendors wherever the needs are felt and the applications have already been made.

10. It is, however, made clear that the appointment shall be made only after inviting applications, framing certain guidelines and conducting certain test as required under the earlier circulars issued by the Board of Revenue.

11. The petition is allowed to the extent indicated above.

12. A copy of this order be supplied to Govt. Pleader No. 1.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/ali-akbar-appellant-hash-the-state-o…