
(2000) 09 PAT CK 0001
In the Patna High Court
Case No : C.W.J.C. No. 9534 of 2000

Anjani Kumar

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 27-09-2000

Acts Referred:

Citation : (2001) 1 PLJR 454

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Advocate : S.N. Thakur, for the Appellant; K.P. Yadav, for the Respondent

Final Decision : Dismissed

Judgement

Radha Mohan Prasad, J.—The prayer In the writ petition is to quash the order dated 18.8.2000 passed by the Special Officer, Rationing, Patna, contained in Annexure-6, cancelling the agreement in respect of public distribution shop in Ward No. 3 and consequently held that his licence bearing No. 126/85 automatically ended.

2. In short, the relevant facts are that the Petitioner, was dealing in sugar under P.D.S. vide licence No. 126/85 as also in clothes, edible oils, kerosene oil, food-grains under the said licence. Vide Annexure-2 his said licence was suspended on account of the fact that in course of enquiry on 7.2.1988 his P.D.S. shop was found closed in between 4 and 7 in the evening and on enquiry from some local people it was reported that his shop usually remains closed. The Petitioner was required to file his show cause as to why his licence should not be cancelled and in pursuance to it the Petitioner personally appeared and filed his show cause on the very first day fixed in the matter. It is alleged that thereafter the hearing of the matter was put up on various dates, and the Petitioner kept waiting for the result. It is claimed by the Petitioner that in his show cause, he clearly stated that sudden illness of his mother required immediate attention of the Doctor, which compelled him to close his shop on 7.2.1988 for treatment in second half

of the day. Accordingly, it is contended that the Petitioner has not contravened any terms and conditions of the licence and, as such, the impugned orders are contrary to law. It is also contended that the suspension order was illegally continued beyond the period of 90 days, which is the maximum period prescribed under Clause 11 of the Unification Order for continuance of suspension during the pendency of the enquiry. As such, it is contended that the suspension is a nullity.

3. It appears that earlier the Petitioner had come to this Court in C.W.J.C. No. 5872 of 2000 against the said suspension of his licence and this Court vide order dated 12.7.2000, contained in Annexure-5, directed Respondent No. 2 to finally decide the said so-called proceeding definitely by 31.8.2000, failing which it was directed that the Petitioner shall be allowed to run the shop from 1.9.2000. Thereafter the impugned order dated 18.8.2000 has been passed disposing of the case.

4. It is contended that the entire proceeding was conducted with snail speed and after the order of this Court the impugned order has been hurriedly passed without giving him any opportunity of being heard. It is submitted that the reasons assigned for cancellation of the shop of the Petitioner are mere imaginary and not based on any reasonings rather the same appears to be a result of bias approach of the Special Officer, Incharge Marketing, Patna (Respondent No. 4).

5. This Court finds it difficult to accept the said submission of the learned Counsel for the Petitioner. From his own statement made in paragraph 17, the Petitioner was informed vide letter dated 8.8.2000 about the date of hearing on 12.8.2000 at 12 noon and he appeared in time and claims to have filed a petition for allotment of the article of the shop, but was not given any opportunity of hearing. It appears that there may be some laches on the part of the authorities also in the delay in disposal of the case, which was pending since 1988, but the Petitioner also never took any interest. He could have moved this Court soon after the expiry of 90 days of the suspension of his licence, but he for the first time moved only in the year 2000. However, in the impugned order, this Court does not find any infirmity as the authority has considered the show cause filed by the Petitioner.

6. In the show cause filed on 12.7.1990, contained in Annexure-4, he admitted that on 7.2.1988 the shop was closed, but has taken the plea that his mother suddenly fell ill. From the impugned order, it appears that the Petitioner filed medical certificate with respect to the illness of his wife. It is not the case of the Petitioner that the authority committed error in mentioning in the impugned order regarding production of medical certificate in support of the illness of his wife. Thus, the Petitioner appears to have taken contradictory plea for the closure of the shop. Moreover, the Respondent-authority has assigned reason for not accepting the said plea that according to the certificate the time for examination of the patient was in between 6 and 8 in the evening but the shop

remained closed from 4 to 7. It appears that a plea was taken on behalf of the Petitioner that he had mentioned about the closure of the shop on the notice-board but the said plea has been rejected by the authority by holding that when the shop itself was not opened in the second half and the wife of the Petitioner had fallen ill as claimed then the question of going to the shop by the Petitioner and mentioning in the notice-board about its closure is not tenable and appears to be concocted. This Court finds substance in the said findings of the authority. It appears that the Petitioner also did not produce the record concerning the shop to give satisfactory answer either with respect to mentioning on the notice board the allegation of the local people about usual closure of the shop in question. However, the Petitioner has not been able to run his shop for over 12 years.

7. Under the aforementioned circumstances, this Court does not find it to be a fit case for interfering with the impugned order and the writ petition is, thus, dismissed.