

(2010) 07 JH CK 0006
In the Jharkhand High Court

Bimal Kumar Kar

APPELLANT

Vs

The State of Jharkhand, The Commissioner of Excise, The
Deputy Commissioner and The Excise Superintendent

RESPONDENT

Date of Decision : 06-07-2010

Acts Referred:

Citation : (2010) 07 JH CK 0006

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Judgement

R.K. Merathia, J.—It is submitted on behalf of the petitioner that the appeal pending before the Excise Commissioner, Patna was heard, but no order was passed and in the meantime new State was created and the records were sent to Jharkhand and thereafter the impugned order has been passed dismissing the appeal on default without any notice to the petitioner about the transfer of the case. In the review petition filed, the Excise Commissioner ordered that the petitioner should have gone in revision before the Member Board of Revenue. Petitioner then filed appeal against the said two orders which is still pending as no person in place of Excise Commissioner has been designated to hear the appeal.

2. Mr. Mukesh Kumar, appearing for the respondents submitted that no person was designated to hear the said appeals, by the time, the counter affidavit was filed in 2006.

3. Counsel for the petitioner submitted that the same position continues till today.

4. In the circumstances, the impugned order dated 13.12.2001 passed in the Appeal Case No. 90 of 1995 and also the order dated 8.11.2004 passed by the Excise Commissioner, Ranchi on the review petition (annexure 1 & 2) are set aside and the appeal case No. 90 of 1995 is restored to its original file. Consequently, petitioner will withdraw the appeal filed against these orders, and will appear before the Excise Commissioner, Ranchi within three weeks along

with a copy of this order. The Excise Commissioner, Ranchi will fix date(s) for hearing of the appeal and dispose it of on merits, in accordance with law, after giving opportunity of hearing to the parties, as early as possible, and preferably within two months from the date of appearance of the petitioner. The parties are directed to cooperate in early disposal of the appeal.

5. With these observations and directions, this writ petition is disposed of.