

(2019) 09 PAT CK 0146

In the Patna High Court

Case No : Miscellaneous Jurisdiction Case No. 4764 Of 2018, Civil Writ
Jurisdiction Case No. 22415 Of 2013

Fuleshwar Poddar

APPELLANT

Vs

State Of Bihar Through And Ors

RESPONDENT

Date of Decision : 23-09-2019

Acts Referred:

Citation : (2019) 09 PAT CK 0146

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Ajit Kumar Singh, Md. Kamil Akhtar

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioner and learned AC to AAG 5 for the State.
2. From the pleadings and materials on record, the Court finds that the order dated 07.10.2015 passed in CWJC No. 22415 of 2013, stands complied with.
3. However, the Court finds that though in the show cause filed on behalf of the opposite parties no. 1 and 3, statement has been made that the Licencing Authority-cum-Sub Divisional Officer, Sadar, Purnea had passed order on the application of the petitioner as contained in Memo No. 491/Aa, dated 09.02.2019 rejecting the plea of the petitioner, copy of the order is not on record.
4. At this juncture, learned counsel for the State produced copy of the aforesaid order. Perusal of the same discloses that the rejection of the application for grant of PDS shop licence to the petitioner is on the ground that he is not a resident of that Panchayat and only in absence of eligible persons of the concerned Panchayat not being available an outsider can be given.
5. Learned counsel for the petitioner submitted that the said ground is also erroneous for he is resident of the same Panchayat.
6. Having considered the facts and circumstances of the case and submissions of

learned counsel for the parties, the Court finds that the order dated 07.10.2015 passed in CWJC No. 22415 of 2013, has been complied with. An order was required to be passed on the application of the petitioner, in accordance with law, after the Court had specifically held that the ground of prohibition of grant of licence to an individual could not be sustained. Since the authorities have rejected the claim of the petitioner on a different ground, and further, the order of the writ Court requiring the authorities to consider the petitioner's application, in accordance with law, such action cannot be construed as contempt.

7. Accordingly, the application stands disposed off.

8. The copy of the order referred to in the show cause filed on behalf of the opposite party no. 2 i.e., the order dated 09.02.2019 contained in Memo No. 491/Aa has been handed over to learned counsel for the petitioner by learned counsel for the State in Court today.

9. The said being a fresh cause of action, it shall be open to the petitioner to move before the appropriate forum, in accordance with law, against the same.