
(2003) 02 JH CK 0048
In the Jharkhand High Court
Case No : Writ Petition (C) No. 2985 of 2002

Manoj Prasad Chaudhary	Vs	APPELLANT
State of Jharkhand and Others		RESPONDENT

Date of Decision : 19-02-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 2 JCR 209

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : M.M. Banerjee, for the Appellant; G.P.I., for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—In this writ application the petitioner has prayed for quashing the order dated 24.4.2002 passed by Collector, Dhanbad in Licence Appeal No. 3 of 2000 whereby he has dismissed the appeal filed by the petitioner and order dated 8.11.1999 passed by Sub-Divisional Officer. Dhanbad cancelling the fair price shop dealership licence granted to the petitioner under the Bihar Trade Articles (Licence Unification) Order, 1984.

2. The petitioner was granted fair price shop licence. The Sub-divisional Officer, Dhanbad on the basis of complaint made by a public initiated a proceeding against the petitioner for cancellation of licence and after hearing the parties and considering the inquiry report passed final order of cancellation of licence. The said order was affirmed by the Collector in appeal filed by the petitioner.

3. Mr. M.M. Banerjee, learned counsel for the petitioner assailed the impugned order mainly on the ground that the licensing authority after considering the show cause filed by the petitioner has passed routine order without assigning any reason. Learned counsel for the petitioner put heavy reliance on the decision passed by this Court in the case of Prahlad Kumar Gupta v. State of Bihar and Ors. (2001) 1 JCR 265 and unreported judgment passed in CWJC No. 1186 of

1999(R).

4. In Prahlad Kumar Gupta's case (supra) the Licensing Authority while passing the order for cancellation of licence simply held that show cause filed by the dealer is unsatisfactory. The court observed :

"As noticed above, in the instant case it appears that the Licensing Authority mainly relied upon the Inquiry Report and on that basis it was simply stated in the order that explanation was inadequate. Admittedly, no prima facie finding was recorded by the authority as to whether petitioner in fact has violated the conditions of licence or provisions of the Unification Order or the allegations made against the petitioner are correct or not? In that view of the matter the order impugned can not be sustained in law and the matter needs reconsideration by the Sub-Divisional Officer."

5. Similarly, in the case of Jayant Galla Bhandar v. State of Bihar and Ors., CWJC No. 1186 of 1999(R), the Licensing Authority in the order of cancellation simply recorded that the explanation submitted by the petitioner is not satisfactory. The appellate authority also affirmed the finding by holding that if the Licensing Authority was not satisfied with the explanation submitted by the petitioner then there is no reason for interference in the said order.

6. Coming back to the instant case it appears that a counter affidavit has been filed where it is stated that allegations against the petitioner was that petitioner failed to maintain the books of account i.e., stock, sale and balance of essential commodities and the petitioner was also found charging extra amount over and above the price fixed by State Government for various articles. Petitioner was further found indulging black marketing and violation of terms of licence. The Licensing Authority discussed the report submitted by the Inquiry Officer and after hearing the parties passed impugned order of cancellation of licence. The Collector being the appellate authority has reappraised the entire materials on record and after giving full opportunity of hearing to the appellant and after discussing each and every allegation has recorded a finding that the allegation made against the petitioner was proved, consequently appeal was dismissed. In my opinion therefore, the decision relied upon by the counsel for the petitioner does not apply in the facts of the present case.

7. For the aforesaid reasons, I do not find any reason to interfere with the impugned order. This writ application is accordingly dismissed.