
(2008) 03 JH CK 0018
In the Jharkhand High Court

Md. Nemat

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 27-03-2008

Acts Referred:

Citation : (2008) 3 JCR 123

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

N.N. Tiwari, J.—According to the petitioner, his father was granted hawker licence of kerosene oil in 1985 and, thereafter, he had got the licence renewed from time to time. Petitioner's father died on 13th March, 2007. After the death of his father, the petitioner filed an application for grant of licence in his name on compassionate ground, but by the impugned order dated 12th July, 2007, his application was rejected on the ground that there is no provision for granting licence on compassionate ground and that during the lifetime of his father, the licence stood revoked, as far back as in the year 1998 for not getting the licence renewed. It has been stated that the petitioner has all the eligibilities and the petitioner and other family members were dependent on the earning of his father. The respondents should have, thus, considered the petitioner's application sympathetically and should have granted fresh licence even if the same was not renewed by the petitioner's father during his lifetime, as has been stated by the respondents. The petitioner emphatically submitted that he has documents to show that his father had deposited renewal fees all along up to year 2004-2005.

2. A counter affidavit has been filed on behalf of the respondents, stating, inter alia, that the petitioner's father had hawker licence. He did not deposit the renewal fee for the years 1990 to 1993 and as such, his licence was revoked in the year 1998. It has been further stated that there is no provision for granting/renewing the licence on compassionate ground and the petitioner cannot be

substituted in place of his father. The petitioner, in case of eligibility, can independently apply in proper form, but he has applied for substitution of his name in place of his late father, which is not permissible in law. The impugned order dated 12th July, 2007 passed by the Deputy Commissioner, East Singhbhum, Jamshedpur is legal and valid. Thus, the writ petition is not at all maintainable.

3. I have heard learned Counsel for the parties and considered their submissions as also the facts and materials on record. It has been submitted on behalf of the petitioner that the petitioner and other family members were the dependents on the earning of his father and that after the death of his father, his prayer should have been sympathetically considered, but he has not applied for grant of licence in proper form, as informed by the respondents, rather he has claimed renewal of the licence by substituting his name in place of his father. No such provision has been brought on record providing substitution of the name in place of the deceased licensee.

4. The Deputy Commissioner has considered the petitioner's prayer and rejected his application on the said ground. I find no infirmity or illegality in the impugned order. This writ petition is, accordingly, dismissed. The petitioner, however, is at liberty to apply for grant of fresh licence, if he has got eligibility and suitability for the same. If such application is made before the licensing authority, he shall consider the same and pass appropriate order in accordance with law.