
(1990) 09 PAT CK 0030

In the Patna High Court

Case No : Criminal W.J.C. No. 443 of 1990

Messrs S.R. Fertilizer and Chemicals Private Limited and
Another

APPELLANT

Vs

The State of Bihar and another

RESPONDENT

Date of Decision : 06-09-1990

Acts Referred:

Citation : (1990) 2 PLJR 516

Hon'ble Judges : S.N. Jha, J;I.P. Singh, J

Bench : Division Bench

Advocate : Navniti Pd. Singh, for the Appellant; Udai Shanker Saran Singh, for the Respondent

Judgement

1. Petitioner No. 1 is a Private Limited Company and petitioner No. 2 is the Managing Director of petitioner No. 1. It appears that the petitioners' certificate of registration for manufacture and sale was suspended under Clause 31(2) of the Fertiliser (Control) Order, 1985, and a proceeding for cancellation of the same was initiated against them.

2. From Annexure 2, appended to this petition, it appears that the suspension of certificate of registration was done with immediate effect under Clause 31(2) of the said Order and in pursuance of that order the District Agriculture Officer, Muzaffarpur, sealed the factory and godown of the petitioners.

3. It was submitted on behalf of the petitioners that if the authorities concerned have suspended the certificate of registration under sub-clause (2) of Clause 31 of the order, it shall be deemed to have been revoked without prejudice to either party after a period of 15 days from the date of the issue of the order of suspension, as no final order is passed in the cancellation proceeding and in that case seal of the godown and factory may be removed by the authorities concerned.

4. Proviso to sub-clause (2) of Clause 31 reads as follows:

(2) Where the contravention alleged to have been committed by a person is such as would, on being proved, justify cancellation of the certificate of registration or, as the case may be certificate of manufacture or any other certificate granted under this Order to such person, the registering authority may, without any notice, suspend such certificate, as an interim measure :

Provided that the registering authority shall immediately furnish to the person details and the nature of contravention alleged to have been committed by such person and, after giving the person an opportunity of being heard, pass final orders either revoking the order of suspension or cancelling the certificate within fifteen days from the date of issue of the order of suspension :

Provided further that where no final order is passed within the period as specified above, the order of interim suspension shall be deemed to have been revoked (underlined by us) without prejudice, however, to further action which the registering authority may take against the holder of the certificate under sub-clause(1).

5. It has been stated in the petition that the show-cause notice has been issued in the cancellation proceeding and the petitioners have filed their show cause and the matter is subjudice before the registering authority. Suspension order was passed on 28th July, 1990 and the godown and factory of the petitioners were sealed on 31.7.90 and 2.8.90 in pursuance thereof.

6. After hearing the learned counsel for the petitioners and the State and in view of the provisions as laid down under sub-clause (2) of Clause 31 of the Order aforesaid we hold that since no final order has been passed, the suspension order is automatically revoked by a deeming clause as given in the Order itself. In that view of the matter we direct the District Agriculture Officer, Muzaffarpur to remove the seal, subject to the result of final adjudication pending before the Registering Authority. With the aforesaid direction and observation this application is disposed of at the admission stage itself with the consent of the parties.