
(2019) 12 JH CK 0112
In the Jharkhand High Court
Case No : Writ Petition (C) No. 3601 Of 2011

Nunmani Rajak

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 09-12-2019

Acts Referred:

Bihar Trade Articles (Licenses Unification) Order, 1984 — Section 11(2)

Citation : (2019) 12 JH CK 0112

Hon'ble Judges : B.B. Mangalmurti, J

Bench : Single Bench

Advocate : Mahesh Tewari, Subham Mishra

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner as well as learned counsel for the respondents.
2. Learned counsel for the petitioner submitted that this petitioner has approached this Court for quashing the order dated 8th July, 2009 passed by the respondent no.3-Sub-Divisional Officer, Giridih by which his Public Distribution System License No.01 of 1993 has been cancelled, resultantly the agreement executed with the petitioner also stood cancelled. Learned counsel for the petitioner further submitted that an inquiry was conducted in his shop on 29th February, 2008 by Assistant District Supply Officer, Giridih who found irregularities in the shop that no stock register or distribution register was produced as well the price of the stock was not displayed on the notice board. The inquiry team also recorded the statement of Antyodaya card holders as well as red card holders and on recommendation, the respondent no.3 issued show cause by Memo No.425 dated 12th May, 2008 (Annexure 2). Accordingly, reply show cause was filed by this

petitioner but again finding his explanation not satisfactory the second show cause by Memo No.593 dated 23rd June, 2008 (Annexure-3) was issued by the respondent no.3. Learned counsel also submitted that by Annexure-5 dated 8th July, 2009, respondent no.3 cancelled the petitioner's license No.01 of 1993 relating to Public Distribution System as well as also cancelled the agreement. Against this order of respondent no.3, petitioner has approached the Court of Deputy Commissioner, Giridih in Case No.11 of 2009, but the same was rejected by order dated 11th April, 2011 and order of respondent no.3 was upheld. Learned counsel for the petitioner further submitted that respondent no.3 has erred in considering not only the irregularities committed by not producing the stock register as well as distribution register but also on the ground that no price list was displayed on the notice board. It has also been considered that due to irregularity committed by the petitioner several consumers have also conducted Aamran Ansan. It is further submitted that respondent no.3 has also not considered that the person concerned whose statements were recorded during inquiry have filed affidavit, who have stated that they are red card holders and used to take ration from the petitioner's shop. They further stated that they have given statement before the authorities that they were only getting kerosene oil but when they got information from their family that they were also receiving rations from the shop and due to this reason they have given the statements before the authority on wrong impression. The said affidavit has been attached as Annexure-4/1 was also not considered by the respondent no.3, therefore, the order is bad and the same was passed on non-consideration of the affidavit as well as the reasons assigned by the petitioner in his show cause. Learned counsel also submitted that even the provisions of Section 11(2) of Bihar Trade Articles (Licenses Unification) Order, 1984 has not been followed.

3. Learned counsel appearing on behalf of the respondents submitted that due to irregularity committed by the petitioner an inquiry was conducted by Assistant District Supply Officer consisting of Supply Inspector of Bengabad and Supply Inspector of Giridih and on inquiry they submitted their report on 29th February, 2008 finding violation of the agreement as also not produced the registers of stock as well as the distribution. Learned counsel further submitted that the red card holders have also complained about the

petitioner that they are only getting kerosene oil and not the food grains. On the basis of the inquiry, first show cause was issued to this petitioner on 12th May, 2008 and being dissatisfied with the reasons given by the petitioner, the second show cause was issued on 23rd June, 2008. Learned counsel also submitted that the petitioner has given the reason that the stock register and distribution register could not be produced as it was kept inside the house and the house was locked and the key was with the wife of the petitioner, who has gone for taking bath. The second violation was with regard to non-display of the stock price over the notice board. The explanation submitted by the petitioner was that it was due to the new painting over the notice board, so it was not visible. Learned counsel further submitted that final order was passed by respondent no.3-Sub-Divisional Officer on 8th July, 2009. Learned counsel also submitted that this petitioner has availed the remedy before the appellate court and appellate court has also confirmed the order of respondent no.3 and upheld the order. This petitioner has exhausted the remedy before the appellate forum.

4. Considering the above submissions of the parties as well as that during inquiry three violations were reported on which show cause was issued by respondent no.3 and after consideration of the reply to the show cause, the authority has cancelled the license of the petitioner, against which the petitioner has approached before the appellate forum before the court of Deputy Commissioner, Giridih, who also found that there is violation of terms and conditions of the license because at the time of inspection the stock register and distribution register were not produced and prices were not visible on the notice board because the board was too old. The appellate court also found that non-production of distribution register and non-display of price on the notice board at the time of inspection is a serious lapse thus conditions enlisted on the license were violated.

5. Thus, finding no illegality or irregularity in the appeal order of the Deputy Commissioner, Giridih (Annexure-6), instant writ application is dismissed.