

(2019) 10 PAT CK 0084

In the Patna High Court

Case No : Letters Patent Appeal No. 600 Of 2019 In Civil Writ Jurisdiction Case
No. 24910 Of 2018

Raghunath Sah

APPELLANT

Vs

State Of Bihar Through And Ors

RESPONDENT

Date of Decision : 25-10-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 10 PAT CK 0084

Hon'ble Judges : Amreshwar Pratap Sahi, CJ; Ashutosh Kumar, J

Bench : Division Bench

Advocate : Sumeet Kumar Singh, Ajay Kumar Sinha, Vishwambhar Prasad

Final Decision : Dismissed

Judgement

Re: Interlocutory Application No.01 of 2019.

Heard learned counsel for the parties.

The cause shown is sufficient. The delay is condoned. The appeal shall be treated to be within time. Interlocutory Application stands allowed.

Re: Letters Patent Appeal No. 600 of 2019

This appeal has been filed contending that the learned Single Judge committed an error by not issuing a direction to decide the representation of the appellant pending with the authorities in respect of renewal of a Public Distribution System licence which was earlier granted to the appellant.

The undisputed facts are that the appellant was running a licence shop under a licence granted by the competent authority in the year 2000. Subsequently, he became a member of the Panchayat and, therefore, was disqualified under the Rules to continue with the said licence.

After the period of his Panchayat membership came to an end in the year 2006,

the appellant moved an application before the Sub-divisional Officer for renewal of his licence allowing him to continue the running of the said shop. It is this representation which was sought to be revived for which a reminder is said to have been given through a representation in 2013 and again in 2017. These repeated representations were, therefore, in respect of a claim for renewal of a licence which stood terminated on account of the disqualification having been incurred by the appellant to have a licence by virtue of his having become a member of the Panchayat way back before 2006.

This was obviously, therefore, not only a stale claim but without any basis, inasmuch, as once the licence had been terminated by virtue of a disqualification, there is nothing in the Rules which may allow the appellant to claim renewal.

Learned counsel for the appellant submits that he had only prayed for a direction that the representation be considered by the Sub-divisional Officer and a decision be taken thereon.

We find that the learned Single Judge was right in refusing to exercise discretion under Article 226 of the Constitution of India, inasmuch as, the same would amount to issuing a futile writ where there is no right available to the appellant and even otherwise it was after almost 13 years of the moving of the representation that the appellant had approached this Court. The Apex Court in the case of C. Jacob Versus Director of Geology and Mining and another, reported in (2008) 10 SCC 115 has reiterated the law enunciated earlier that repeated representations of delayed claims should not be entertained and has deprecated the issuance of directions by the Writ Court in order to revive a dead issue.

Consequently, for all the aforesaid reasons, we do not find any error in the judgement of the learned Single Judge. The appeal lacks merits and is, accordingly, rejected.