
(1999) 01 RAJ CK 0059
In the Rajasthan High Court
Case No : Civil Writ Petition No. 22 of 1999

Rai Singh

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 18-01-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 1 RLW 688 : (1999) 2 WLC 461 : (1999) 1 WLN 129

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

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—Earlier petition filed by the present petitioner was disposed of by this Court. (Hon"ble Dr. B.S. Chauhan, J.) by order dated 9.9.1998 with the direction to the Excise Commissioner to dispose of the representation of the petitioner after extending an opportunity of hearing within a period of two weeks. According to the directions, the authority heard the petitioner and decided his representation by an impugned order at Annex.20. The same is under challenge in this petition.

2. Learned Senior Advocate Shri Dhankar has raised several contentions in this petition which have been raised before the authority by way of representation in para No. 24 page 77.

3. Whether the petitioner is licensee or not is a question of fact and cannot be determined by this Court in its writ jurisdiction, that was the view taken by Hon"ble Dr.B.S. Chauhan, J. himself while disposing of the writ petition on 9.9.1998 and directing the authority to consider and decide the representation. Going through the impugned order at Aannex.20, it is clear that the representation of the petitioner has been decided by a well reasoned and speaking order. Whether the authority has rightly or wrongly decided the representation of the petitioner that question cannot be gone into and decided by

this Court in its extra ordinary jurisdiction under Article 226 of the Constitution of India. Several disputed questions of facts are also involved in this matter and the very fact that the petitioner was licensee or not that itself is a most important disputed question of fact which cannot be gone into and decided by this Court in its powers under Article 226 of the Constitution of India. The petitioner has got better alternative and efficacious remedy before the civil court and certainly not before this Court by way of this petition in view of the Full Bench Judgment of this Court in case of *Gopilal Teli v. State* reported in 1995 R.L.R. Page 1. It appears that, as a short cut, instead of going to the civil court the petitioner has come before this Court by way of this writ petition so as to save huge court fees. This practice cannot be encouraged.

4. One more submission was made by learned Counsel Shri Dhankar regarding applicability of Rule 72B of the Rajasthan Excise Rules. This contention also goes with the same, therefore, I would not like to have detail discussion on the same.

5. In view of the above discussion, this petition is dismissed without going into any other contention raised by learned Counsel Shri Dhankar.