
(2008) 03 JH CK 0019
In the Jharkhand High Court

Sakaldeo Sao

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 27-03-2008

Acts Referred:

Citation : (2008) 3 JCR 122

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Judgement

N.N. Tiwari, J.—In this writ petition, the petitioner has prayed for a direction on the respondents to consider and convert the Kerosene Oil Hawker License into Thela License, as per the policy decision of the Government.

2. It has been stated that the petitioner was granted Non-PDS License under the provision of Bihar Trade Articles (Licenses Unification) Order, 1984 for vending retail Kerosene Oil in the village-Nagwan. The said license was renewed from time to time. At the State Level Committee under the Chairmanship of Secretary, Department of Food and Civil Supply, Jharkhand. Ranchi, a decision was taken to distribute Kerosene Oil through Thela vendors giving a quota of 1000 Ltrs. each. The Government thereafter took further decision that the persons, who were having retail sale of Kerosene Oil, will be converted into Thela vendors on the basis of seniority. The Deputy Commissioner, Hazaribagh, respondent No. 2 was authorized to take decision in the matter. The State Government in view of the said policy decision invited applications from the retail Kerosene Oil licenses for their conversion into Thela vendors on 30.4.2006 giving 23rd May. 2006 as the last date for submission of the application. The petitioner, who was suffering from high fever and vomiting at the relevant time, could not file his application within the prescribed time. He submitted his application requesting for conversion of his license into thela vendor license on 26th may, 2006 after about two days of the last date of submission of the application. His application was recommended by the Sub-Divisional Officer, Sadar, Hazaribagh.

3. It has been stated that the petitioner has been given license in the year 1995

and for about a decade, he successfully run the said retail shop without any complaint. The petitioner was, thus, entitled to get the said converted license, as the same is the only source of his livelihood. The Deputy Commissioner ignoring the same and without considering the circumstance under which there was two days delay in submission of the application, rejected the petitioner's application by order dated 27.1.2006 (Annexure-7). The petitioner, thereafter, filed application for reconsideration mentioning that the said shop is the only source of his livelihood, but without any consideration, again his application was rejected. The petitioner, thereafter, filed a representation before the Commissioner, North Chotanagpur Division, Hazaribagh, which is still pending before the learned Commissioner and no order has been passed till date. The petitioner has, thus, filed this writ petition.

4. Learned J.C. to Sr. S.C.I, appearing on behalf of the respondents, submitted that the learned Deputy Commissioner, Hazaribagh, who is the competent authority, has considered the petitioner's application and has disposed of the same by a reasoned order. It has been submitted that only 16 licensee were to be given license and the required number of licenses have been given to the concerned eligible persons and there is no arbitrariness, illegality and non-application of mind on the part of the Deputy Commissioner in not allowing the petitioner's application. It has been submitted that the petitioner's application has been rejected assigning the valid reasons and not only on technical ground of submitting application after delay of two days. There is, thus, no infirmity and illegality in the impugned order of the learned Deputy Commissioner, Hazaribagh.

5. I have heard learned Counsel for the parties and considered the facts and materials on record. Though the Deputy Commissioner has rejected the petitioner's application on the ground that only 16 persons were to be given license and required number of licenses have already been given, yet the Deputy Commissioner has not considered as to what was the infirmity in the petitioner's application or under what circumstance the petitioner, who is a retail licensee since 1995, has not been given the benefit of conversion as per the policy decision of the Government. As has been submitted by the learned Counsel for the petitioner that the said shop is the only source of his livelihood and that of his family members, the Deputy Commissioner, Hazaribagh should have considered the said aspect and should not have outrightly rejected the petitioner's application. Since the petitioner has already approached the Commissioner and the matter is still pending, instead of remitting the matter to the Commissioner, North Chotanagpur Division, Hazaribagh, this writ petition is disposed of directing the Commissioner, North Chota-nagur Division, Hazaribagh to consider the petitioner's representation keeping in view that he was the licensee since 1995 and the policy decision of conversion has been taken by the Government and as also the petitioner's claim that no irregularity was found during the said long period of his license and that recommendation has been made in his favour by the Sub Divisional Officer, Hazaribagh. Learned Commissioner, if necessary, shall afford opportunity of hearing to the petitioner

and shall pass appropriate order disposing of the petitioner's representation within a period of six weeks from the date of receipt/production of a copy of this order.