

(2020) 01 PAT CK 0247

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 838 Of 2020

Sarvanand Singh

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 16-01-2020

Acts Referred:

Citation : (2020) 01 PAT CK 0247

Hon'ble Judges : Ashutosh Kumar, J

Bench : Single Bench

Advocate : Shankar Kishore Shahi, S. Raza Ahmad

Final Decision : Disposed Of

Judgement

1. Heard the learned counsel for the parties.
2. The petitioner has challenged the order dated 02.07.2019 passed by the District Magistrate / Appellate Authority in Supply Appeal Case No.6/018-19 whereby the order of cancellation of license of the petitioner by the Sub-Divisional Officer, Muzaffarpur (West) dated 11.05.2015 has been sustained.
3. From the perusal of the order impugned, it appears that earlier, against the order of cancellation of license, the petitioner had approached this Court vide C.W.J.C. No. 12354 of 2017 and this Court by order 03.05.2018, taking into account that there is an availability of alternative remedy, granted the liberty to the petitioner to prefer an appeal before the concerned authority. Pursuant to the aforesaid order, an appeal was preferred in which the order impugned has been passed.
4. Learned counsel for the State has pointed out that the petitioner is a licensee of the Control Order of 2001 and any license under the earlier order is required to be renewed within six months of the commencement of the Bihar Targeted Public Distribution System (Control) Order, 2016 on payment of Rs. 1,000/- as license fee through treasury Challan (Rule 13).

5. Since the license of the petitioner was cancelled, there was no occasion for the petitioner to have applied for renewal of his license as in the interregnum, the matter remained pending before the licensing as well as the appellate authority.

6. With the commencement of the Bihar Targeted Public Distribution System (Control) Order, 2016, the petitioner would have been within his rights to have his license renewed provided the license was existing on such date.

7. At this juncture, it would be apposite to point out that even if the order cancelling the license of the petitioner would have been set aside in appeal, the situation would not have changed. Under 2011 license, with the criminal case pending, the license remains suspended till the criminal case finally decided.

8. The case against the petitioner is still pending and he is on bail.

9. Assuming that this Court finds fault with the appellate order or the original order of cancellation of license and sets aside both the orders, it would not change the situation as the license of the petitioner would remain suspended till the verdict of the trial court as ordained under the 2001 Order.

10. Under the aforesaid circumstance, it would absolutely be a fruitless exercise for the petitioner to agitate against the orders impugned in this petition. Even if this petition succeeds, the petitioner would not be able to have his license renewed; rather he will be required to apply for a new license, if so desired, under the Bihar Targeted Public Distribution System (Control) Order, 2016.

11. Considering this aspect of the matter, this Court deems it appropriate not to adjudicate the issue with respect to the correctness of the appellate or the original order but exercising its powers under Article 226, directs that in case the petitioner applies for grant of a new license under the Bihar Targeted Public Distribution System (Control) Order, 2016 either on advertisement or on his own accord, the same shall be entertained by the licensing officer, if permitted under the law and he shall not be prejudiced by the fact that the license of the petitioner granted under 2001 Order had been cancelled earlier because of his involvement in the criminal case under the Essential Commodities Act, 1955 and other Sections of the I.P.C. This concession shall be granted to the petitioner, it is reiterated, provided the law in this regard permits the licensing authority to do so. The licensing authority on such application being received by the petitioner shall take into account that the case against the petitioner with respect to his activities earlier is still pending and if there is no proscription for choosing a person to be a licensee under the Bihar Targeted Public Distribution System (Control) Order, 2016 because of the pendency of criminal case, the same shall be considered in an objective fashion and a decision shall be taken. It would also be open for the petitioner to apply against any advertisement for grant of license for that area.

12. The aforesaid directions have been issued in the present writ petition on the strength of the submission made on behalf of the petitioner that under the Bihar

Targeted Public Distribution System (Control) Order, 2016, no license under the PDS Scheme has been granted to anybody for the area for which the petitioner was a licensee in the past.

13. With the aforesaid observation / direction, this petition stands disposed off.