
(2012) 07 JH CK 0062

In the Jharkhand High Court

Case No : Writ Petition (C) No. 7262 of 2011

Shankar Mahto

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 31-07-2012

Acts Referred:

Citation : (2013) 3 JLJR 678

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : H.K. Mahto, for the Appellant;

Final Decision : Allowed

Judgement

Narendra Nath Tiwari

1. In this writ petition, the petitioner has prayed for quashing the order dated 28.6.2011 issued by the Sub-Divisional Officer, Bundu, Ranchi, communicated by the Block Supply Officer, Sonahatu, District Ranchi, whereby the petitioner's P.D.S. Licence has been put under suspension on the ground of pendency of the enquiry. Learned counsel appearing on behalf of the petitioner submitted that even after lapse of more than a year, the suspension has not been revoked by the respondents. He submitted that Clause-11 of the Bihar Trade Articles (Licenses Unification) Order, 1984 clearly provides that the licence can be put under suspension only for an interim period of 90 days and not beyond that. But in the instant case, the said provision of law has been ignored by the concerned authority and no order of revocation has been passed till date.

2. The respondents have contested this writ petition by filing a counter affidavit. It has been stated, inter-alia, that several complaints were received against the petitioner which were enquired into. On the basis of the enquiry report the impugned order of suspension was issued.

3. Learned counsel for the petitioner submitted that the entire allegation against

the petitioner is wholly false and frivolous and from the record it would be evident that the allegation was against somebody else and not against the petitioner. There was no valid ground for suspension of the petitioner's licence. The petitioner has become a victim of malicious attitude of some of the interested officials of the Department.

4. I have heard learned counsel for the parties and considered the facts and materials on record.

5. The petitioner's P.D.S. licence was suspended by order dated 28.6.2011 passed by the Sub-Divisional Officer, Bundu which was communicated by the Block Supply Officer, Sonahatu on the same date. On perusal of the order, I find that with the said order of suspension the petitioner was asked to show-cause on the allegations made against him regarding his P.D.S. shop.

6. According to the petitioner, he had filed his written explanation denying allegation long back on 29.7.2011, but even after receipt of the same, no order was passed by the licensing authority.

7. Clause-11 of Bihar Trade Articles (Licences Unification) Order, 1984 prescribes provision for suspension and cancellation of licence, which runs thus :-

11. Suspension and cancellation of licence.-- (1) if any licensee or his agent or servant or any other person acting on his behalf contravenes any of the terms and conditions of the licence, then without prejudice to any other action that may be taken against him under the Essential Commodities Act, 1955 (Central Act 10 of 1955) his licence may be cancelled or suspended with regard to one or more trade articles by an order in writing of the Licensing Authority and an entry will be made in his licence relating to such suspension or cancellation.

(2) No order of cancellation shall be made under this clause unless the licensee has been given a reasonable opportunity stating his case against the proposed cancellation but during the pendency or in contemplation of proceedings of cancellation of licence, the licence can be suspended for a period not exceeding 90 days without giving any opportunity to the licensee of stating his case. Such suspension shall be limited only to those trade articles regarding which contravention has been made by the licensee.

(Emphasis supplied)

8. On plain reading of the said clause, it is evident that the licence cannot be suspended exceeding 90 days, without giving any opportunity to the licensee of stating his case.

9. In the instant case after getting the order of suspension and notice to show-cause, the petitioner had filed his written explanation denying the allegation. Thereafter, there was no contrary finding against the petitioner by any authority.

10. Since the petitioner's licence was suspended pending enquiry, the maximum limit of period for such suspension is 90 days, which expired long ago.

11. Admittedly, after suspension no further charge has been served and no proceeding is initiated.

12. In view of the above, keeping the petitioner's licence under suspension beyond 90 days is contrary to the provision of Clause-11 and is wholly illegal.

13. I find no justification in putting the petitioner's licence under suspension for such a long time i.e. for more than a year. For the reasons aforesaid, this writ petition is allowed. The suspension of the petitioner's P.D.S. licence is revoked.