
(2008) 12 JH CK 0063
In the Jharkhand High Court

Shanti Udyog

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 04-12-2008

Acts Referred:

Citation : (2009) 1 JCR 536

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

R.R. Prasad, J.—Heard learned Counsel appearing for the petitioner and learned Counsel appearing for the Respondents.

Through this writ application the petitioner has prayed for quashing of the order as contained in memo No. 62 dated 14.3.2007 (Annexure 4) whereby licence granted to the petitioner for running a factory in the name and style as Shanti Udyog situated at Markora, Mugma, Dhanbad has been cancelled.

2. Learned Counsel appearing for the petitioner submits that licence of the petitioner for running the. said factory has been cancelled without giving any opportunity of hearing and as such, on this ground alone, the order of cancellation of licence of the petitioner's factory is fit to be set aside and that apart, the impugned order is tainted with mala fide as the same has been passed on the recommendation of the Minister of Labour, Employment and Training and, therefore, the impugned order is fit to be set aside.

3. However, learned Counsel appearing for the State submits that petitioner's licence has been cancelled as the factory was found closed since last six months and also on the ground that licence of the petitioner had not been renewed and as such the impugned order needs no interference.

4. It appears that when the case was taken up on 27.11.2008, the case was adjourned for today (4.12.2008) at the instance of learned Counsel appearing for

the State for filing counter affidavit. However, while adjourning the case, it was made clear that if no counter affidavit is filed, the matter would be decided on the basis of material available on record. In spite of that no counter affidavit has been filed and under this situation both the parties were heard.

5. From perusal of the impugned order it does appear that the licence of the petitioner was cancelled as according to Factory inspector, Dhanbad (respondent No. 4) the factory was found closed since last six months but the impugned order does not indicate that before passing order any opportunity of hearing was given to the petitioner whereas case of the petitioner is that factory of the petitioner was very much running and the petitioner was even depositing Central Sales Tax and other taxes and was making contributions towards CPF which would be evident from the documents filed in this case and all those documents go to establish that the factory of the petitioner was not closed and had the opportunity been given to the petitioner, the petitioner would have shown that the factory was running. So far the matter relating to renewal is concerned, that is altogether a different issue. It is the case of the petitioner that the application for renewal of the licence is pending consideration before the authority. It is never the case of the respondent that on account of non-renewal of the licence, the licence granted earlier would be deemed to have been cancelled.

6. Having found that the licence of the petitioner has been cancelled without giving any opportunity of hearing to the petitioner, the impugned order as contained in memo No. 62 dated 14.3.2007 (Annexure 4) is set aside.

7. Accordingly, this writ application is allowed.