
(2005) 05 PAT CK 0022
In the Patna High Court
Case No : CWJC No. 3479 of 2005

Shiv Kumar Bhagat

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 17-05-2005

Acts Referred:

Penal Code, 1860 (IPC) — Section 302

Citation : (2005) 3 PLJR 702

Hon'ble Judges : Nagendra Rai, Acting C.J.; S.N. Hussain, J

Bench : Division Bench

Advocate : Navaniti Prasad Singh and Satyabir Bharti, for the Appellant;
Jitendra Kumar Singh and Ram Badan Mahto, R.K. Dutta and Pumendu Singh, for the Respondent

Final Decision : Allowed

Judgement

1. The petitioner has filed the present writ application for quashing the order dated 3.3.2005, contained in Annexure-7, passed by the Collector, Begusarai refusing his application for renewal of wholesale licence for sale of India Made Foreign Liquor (IMFL). This case has chequered history in the sense that earlier there was only one wholesale licence for sale of IMFL in the District of Begusarai. The petitioner filed an application for grant of additional licence for wholesale to vend in IMFL and the Collector recommended. In the meantime, that decision was challenged by the original settlee Prem Lata Gupta before this Court and this Court though having found the application of the petitioner in order, quashed the recommendation with regard to sanction of additional wholesale licence on different ground. The matter went before the Supreme Court and the Supreme Court reversed the judgment of this Court. It found that the relevant material were taken into consideration by the concerned authorities for granting additional wholesale licence. Thereafter, it appears that the petitioner was granted licence on 27.6.2002 to vend in IMFL. He filed an application for renewal of the wholesale licence for the year 2003-04 and 2004-05 but thanks to the efficiency

of the Collector that he sat over the file and passed the impugned order contained in Annexure-7.

2. The vital ground given by the Collector for non-renewal of the wholesale licence of the petitioner is that the petitioner is an accused in a case u/s 302 of the Indian Penal Code. This question, in our view, is no longer res Integra and has been decided by the Division Bench of this Court in CWJC No. 5824 of 1996 disposed of on 6.8.1996 where this Court having taken note of Rule 53 of the Rules framed by the State Government held that a person can be denied licences if he has been convicted by a criminal Court of a non-bailable offence and in terms of the said rule, sale notification cannot be given effect. In that case, according to Clause 7(ka) of the notification, even if a person against whom cognizance has been taken and charge sheet has been submitted was not found eligible for applying and accordingly, this court set aside clause 7(ka) as contained in the sale notification.

3. In view of the aforesaid judgment, we are of the view that the main ground for holding that the wholesale licence granted to the petitioner cannot be renewed is not a valid ground.

4. The other ground given by the Collector is that some undue pressure from the outsider was put upon him which appears to be a device for sitting over the matter for long period. So, that cannot be a relevant ground. So far third ground that earlier settlement itself was not valid, cannot be taken as a ground in view of the earlier judgments at this stage when the same was not challenged earlier. However, we are not inclined to express any opinion on the same as the matter has to go before the Collector for fresh consideration with regard to question of renewal of licence where the intervenor can raise his grievances. The said decision is to be taken within six weeks from the date of receipt/production of a copy of this order. In the result, the impugned order dated 3.3.2005 contained in Annexure-7 to the writ application is quashed. The writ application is allowed.