
(2010) 05 JH CK 0013
In the Jharkhand High Court

Smt. Kusum Devi

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 19-05-2010

Acts Referred:

Citation : (2010) 05 JH CK 0013

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—Heard counsel for the parties.

2. The grievance of the petitioner in this writ application is against the impugned order of cancellation of the Public Distribution Shop license which was granted to her in 2004, on the grounds that her husband being a government employee, she is not eligible for the grant of license and that the authorities concerned have received complaint against the petitioner that she has been found indulging in black-marketing of food-grains.

3. Assailing the impugned order, learned Counsel for the petitioner submits that the impugned order is thoroughly illegal, arbitrary and contrary to the provisions of law. Learned Counsel argues that neither of the grounds on the basis of which the license has been cancelled, is tenable. The petitioner has not violated any of the terms and conditions of the license which was issued to her under Bihar Trade Articles license and Unification Order, 1994.

Learned Counsel explains further that the ground of the petitioner's husband being a government employee as being an ineligibility, was never imposed as a condition for cancellation of license. Therefore, the said plea cannot be taken by the respondents.

As regards the second ground regarding receipt of allegations against the petitioner, learned Counsel submits that no inquiry was conducted in support of any such alleged complaint in the petitioner's presence, nor was the petitioner invited to any such inquiry if at all conducted and the decision taken in the

matter relating to the alleged complaint was a unilateral decision of the respondent authorities.

4. Counsel for the Respondent, on the other hand, argues that upon receipt of complaint from the villagers, that the petitioner was found indulging in black-marketing of food-grains, an inquiry was conducted by the Block Development Officer and a show cause notice was issued to the petitioner and after granting her an opportunity of being heard, the decision to cancel her license was taken.

5. Learned Counsel for the petitioner would want to controvert the above statements of the Respondents by inviting attention to Annexure-4, which is a copy of the petitioner's representation submitted by her in response to the notice dated 30.05.2007. The explanation which the petitioner was asked to submit was on the allegation that the petitioner's husband was a government employee. The notice does not indicate anywhere that any complaint was received against the petitioner nor does it invite any explanation from the petitioner in respect of any allegations purportedly received against her.

6. As it appears from the notice (Annexure-3) served upon the petitioner, the same does not refer to any complaint or allegation received against the petitioner.

On perusal of the explanation (Annexure-4), submitted by the petitioner it also does not relate to replies in respect of any specific allegation in the nature alleged by the respondents. Even otherwise, if complaints were received against the petitioner regarding commission of irregularities in the distribution of food-grains, then an appropriate inquiry was required to be conducted by making stock verification, verification of the sale registers and also after obtaining the statements of the card-holders. Apparently, no such inquiry was conducted and neither was the petitioner given a reasonable and adequate opportunity of being heard if any such allegations were inquired into.

7. As regards the contention that the petitioner's husband is a government employee and, therefore, the petitioner is not entitled to the grant of Public Distribution Shop license, learned Counsel for the respondent-State has not been able to point out any such condition in the terms and conditions of license issued to the petitioner. It is also not informed as to whether in addition to the terms and conditions of license under which the license once granted to the person, the authorities concerned could have applied any other separate terms and conditions including the condition that no member of the family of the licensee should be a government employee.

8. In the light of the above facts and circumstances, in my opinion, the impugned order of cancellation of the petitioner's license is not in consonance with the requirement of the procedure for cancellation of the license and is violative of the principles of natural justice. The same therefore cannot be sustained and is hereby quashed. However, the matter is remitted back to the concerned authorities of the respondents to take a fresh decision on the issue as to whether the license under the P.D.S. Scheme should be granted to the petitioner. In

taking such decision, the respondent authorities shall offer to the petitioner a reasonable and adequate opportunity of being heard. This exercise must be carried out and completed within a period of two months from the date of receipt/production of a copy of this order.

9. With these observations, this writ application is disposed of.

Let a copy of this order be given to the counsel for the Respondents.