
(2008) 05 JH CK 0041
In the Jharkhand High Court

Super Briquette Industries

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 09-05-2008

Acts Referred:

Citation : (2008) 4 JCR 143

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Narendra Nath Tiwari, J.—In this writ petition, the petitioner has prayed for quashing the letter dated 9th April, 2007 issued by the Factory Inspector, Dhanbad Circle, Dhan-bad, whereby the petitioner's licence has been cancelled with immediate effect.

2. A short point has been taken by learned Counsel for the petitioner that the impugned order has been passed, cancelling the petitioner's licence, without giving any notice or opportunity of hearing. The impugned order has been passed on the allegation that the petitioner's factory had been closed for the last six months. It has been submitted that the petitioner's factory has been continuously running and that the petitioner has been paying all the rates and taxes and that the impugned order is arbitrary and perverse.

3. When the case was taken up earlier on 27th March, 2008, the respondents had taken time for filing counter affidavit. Two weeks' time was granted to them for filing counter affidavit. Subsequently, when the case was listed on 17th April, 2008, prayer was again made for time to file counter affidavit by way of last indulgence and this Court had allowed further two weeks time to file counter affidavit clearly mentioning that no further time will be granted and the writ petition shall be heard and disposed of on the basis of the material available on record. Today, when the case is called out for hearing, Mr. P. Modi, learned G.P. I, again made the same prayer for time without assigning any cogent reason for

not filing counter affidavit in spite of taking time twice for filing counter affidavit.

4. I have heard learned Counsel for the parties, Mr. P. Modi, learned G.P. I, appearing on behalf of the respondents submitted that though the impugned order does not mentioned about the service of notice or opportunity of hearing to the petitioner, from the statement made in the writ petition, it is evident that the petitioner's electrical line was disconnected in December, 2006 and it would be also evident from the electricity bill that the petitioner's factory was not running for the last six months.

5. I have read the contents of the writ petition and also considered the submissions made by learned Counsel for the petitioner. In Para 21 of the writ petition, the petitioner has specifically stated that the petitioner's electrical connection was disconnected sometime in December, 2006 for non-payment of certain dues, but in spite of disconnection, petitioner's unit has been continuing to operate and run on generator set.

6. Learned Counsel for the petitioner submitted that before passing the said impugned order, no notice was issued to the petitioner so that the petitioner could satisfy the concerned authority about running of its factory.

7. On perusal of the impugned order, it is evident that no notice was issued to the petitioner before cancellation of his licence. The ground for cancellation as mentioned in the notice is that the factory was closed for the last six months, but the said conclusion has been recorded unilaterally without giving any opportunity of hearing to the petitioner. The impugned order (An-nexure-2) also does not disclose about the service of any notice or opportunity of hearing. Whether the petitioner's factory is running is a question of fact and this Court does not delve into the said controversy at this stage.

8. I find substance in the submission of Mr. M.S. Mittal, learned Counsel, appearing on behalf of the petitioner that the petitioner has not been given any notice or opportunity of hearing itself is a sufficient ground to hold violation of principle of natural justice and on that ground to hold the impugned order a nullity.

9. For the reasons aforesaid, the impugned order dated 9th April, 2007 cannot sustain and is hereby quashed. This writ petition is allowed.

However, if the respondents have any ground to proceed, they are at liberty to proceed in accordance with the provisions of law.