
(2011) 04 PAT CK 0211
In the Patna High Court
Case No : CWJC No. 5732 of 2005

Triveni Choudhary

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 28-04-2011

Acts Referred:

Essential Commodities Act, 1955 — Section 7

Citation : (2012) 1 PLJR 17

Hon'ble Judges : S.N. Hussain, J

Bench : Single Bench

Judgement

S.N. Hussain, J.—Heard learned counsel for the petitioner and learned counsel for the respondents.

2. This writ petition has been filed by the petitioner challenging order dated 25.11.2003 (Annexure-1) by which the Sub-Divisional Officer, Rajouli (Nawada) suspended Licence No. 24 of 1995 granted to the petitioner under the provisions of Bihar Trade Articles (Licenses Unification) Order, 1984.

3. From the facts of the case as well as from the materials on record, it is quite apparent that the impugned order was passed due to pendency of a criminal case against the petitioner bearing Sirdala P.S. Case No. 93 of 2003 for offence punishable u/s 7 of the Essential Commodities Act, 1955.

4. Learned counsel for the petitioner submits that no doubt Sirdala P.S. Case No. 93 of 2003 was instituted against the petitioner for offence punishable u/s 7 of the Essential Commodities Act, 1955, but the said proceeding was quashed by this court vide order dated 21.8.2006 passed in Cr. Misc. No. 5312 of 2005 which was filed by the petitioner and thereafter there was nothing against the petitioner.

5. Learned counsel for the petitioner further submits that the said order was passed without any notice to the petitioner and it was passed on the direction of the District Magistrate, Nawada who is the appellate authority as per the provisions of the Bihar Trade Articles (Licenses Unification) Order, 1984. Hence,

he claims that the said order is illegal, arbitrary, perverse and is fit to be set aside.

6. Although this writ petition was filed in the month of May, 2005 after serving two copies of the writ petition in the office of learned Advocate General, but in spite of information sent to the authorities no counter affidavit has been filed contradicting the points raised on behalf of the petitioner.

7. In the aforesaid circumstances, it is quite apparent that the only ground for suspension of petitioner's license was pendency of the criminal case against him. Hence once the criminal case was quashed by an order of this court, nothing remained against the petitioner on the basis of which his suspension could have been legally continued. Even for other reasons suspension of petitioner's license should not have been allowed to continue beyond 90 days as per the specific provisions of the Bihar Trade Articles (Licenses Unification) Order, 1984.

8. Accordingly, this writ petition is disposed of with a direction that the suspension of the petitioner's licence was valid only up-till 21.8.2006 when the criminal case against him was quashed by this court and for the period subsequent to that date, the impugned order of the Sub-Divisional Officer, Rajouli (Nawada) dated 25.11.2003 was null and void and petitioner's licence shall be legally presumed to have revived on 22.8.2006. The respondents authorities are directed to treat the petitioner as holder of valid licence since the said date.