
(2017) 04 PAT CK 0003

In the Patna High Court

Case No : 12692 of 2016

Upendra Singh

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 03-04-2017

Acts Referred:

Citation : (2017) 04 PAT CK 0003

Hon'ble Judges : Shivaji Pandey

Bench : SINGLE BENCH

Advocate : Abhay Kumar, ?Upendra Pratap Singh

Final Decision : Allowed

Judgement

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. In this case, the petitioner is challenging the order dated 13.1.2015 passed by the Sub-Divisional Officer, Masaurhi, Patna, whereby and whereunder he has cancelled the P.D.S. licence of the petitioner. The petitioner is also challenging the order dated 30.06.2016 passed by the Collector, Patna in E.C. Appeal No.80 of 2015-16, whereby he has dismissed the appeal and confirmed the order of the Sub-Divisional Officer, Masaurhi.
3. From the order of the Sub-Divisional Officer, it appears that when the inspection was done, the P.D.S. shop was found closed. The explanation has been given by the petitioner that on 18.12.2014 his own aunt had died and he was not in the village in

connection with attending the funeral of his aunt, on that account, the shop was found closed. The order of the Collector indicates that the authority has tried to contact the petitioner but he did not receive the call.

4. Learned counsel for the petitioner has attached the Death Certificate, showing that Sakuntala Devi, claiming to be the aunt of the petitioner, was cremated on 19.12.2014.

5. It appears that there is no allegation against the petitioner that he was involved in black-marketing or any other irregularities. The only allegation is that when the inspection was done, the shop, in question, was found closed. The ground which has been taken by the authority cannot be a basis for cancelling the licence of the petitioner as in such circumstance, it is expected reaction from any human that he will give preference to participate in funeral of his/her aunt. This aspect of the matter has not been considered by both the authorities.

6. In such view of the matter, both the orders dated 13.01.2015 and 30.06.2016 are set aside. The matter is remanded back to the Sub-Divisional Officer, Masaurhi, Patna, for passing appropriate order in accordance with law.

7. With the aforesaid observations and directions, this writ application is allowed.