

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18655 of 2010

=====

Nand Kumar Gupta, son of Shri Chandradeo Prasad Gupta, resident of
Ward no.46, Mohalla-Murzan Hat, P.S.-Mozahitpur, District-Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum-Commissioner, Department of Food & Consumer Protection, Government of Bihar, Patna.
2. The Divisional Commissioner, Bhagalpur.
3. The District Magistrate-cum-Collector, Bhagalpur.
4. The Sub-Divisional Officer, Sadar, Bhagalpur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. S.D.Sanjay, Sr.Adv.
Mr.Alok Kumar Agrawal

For the Respondent/s : Mr. Manoj Kumar Sinha, AC to SC-30

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 20-04-2015

Heard the parties.

The matter at issue is the action taken against the petitioner in terms of clause 11 of the Bihar Trade Articles (Licences Unification) Order, 1984.

By the impugned original order dated 01.01.2009 (Annexure-6) passed by the respondent S.D.O., Sadar Bhagalpur, the licence of the petitioner for retail sale of kerosene oil as Thela Vendor has been cancelled on the ground that he has violated the terms and conditions of the licence and he sold the kerosene oil not at the place allotted to him, i.e., ward no.19 of Bhagalpur town, rather at some other place, i.e., in ward no.46. The appeal preferred by the petitioner has been rejected by the respondent District Magistrate by the order dated 17.05.2010 (Annexure-7) and the order passed by the original authority has been affirmed. The revision application filed by the petitioner before the respondent Divisional Commissioner was also rejected by the order dated 28.07.2010 (Annexure-8), but on different grounds.

In the whole writ petition, the licence issued to the

petitioner has not been brought on record. Any amendment or change of place of the business of the petitioner by passing an appropriate order by the licensing authority is not reflected on the basis of the documents available on record. In fact, change of place of the business of the petitioner, if any, could have been shown in the licence issued by the licensing authority under the provisions of the Unification Order. The licensing authority has also recorded a finding of fact that the show cause notice was issued to the petitioner, but he did not file his show cause, rather he sent his reply through a registered letter.

Learned senior counsel appearing on behalf of the petitioner by referring to the documents as contained in Annexure-1, which is of the year 1990 and some other documents tried to submit that, in fact, on the basis of the application filed by the petitioner, the petitioner was permitted to sell the kerosene oil at some other place. However, in absence of licence of the petitioner, these facts cannot be verified. In fact, the licence is the only document, which shows the place of business of a licence holder.

In above view of the matter and for the reasons recorded by the licensing authority regarding violation of the terms and conditions of the licence by the petitioner and resultant cancellation of his licence, which have been affirmed by the appellate and revisional authorities, this Court does not find any good ground to interfere with the impugned orders dated 01.01.2009, 17.05.2010 and 28.07.2010, as contained in Annexures-6, 7 and 8 respectively.

In the result, the writ application has to fail and is, accordingly, dismissed, but there shall be no order as to costs.

Arvind/-

U			
---	--	--	--

(Birendra Prasad Verma, J)