

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.521 of 2014

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Baiju Rai @ Baidyanath Rai S/O Late Dular Rai, resident of Village-
Bathna, P.O.-Motipur, P.S.-Motipur, Anchal-Motipur, District- Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner, Tirhut Division, Muzaffarpur
3. The District Magistrate, Muzaffarpur
4. The Sub Divisional Officer, Muzaffarpur (West)
5. The District Supply Officer, Muzaffarpur
6. The Assistant District Supply Officer, Muzaffarpur
7. The Block Supply Officer, Muzaffarpur

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Nalin Kumar, Advocate

For the Respondent/s : Mr. Raju Giri, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 07-04-2015 Mr. Surendra Kishore Thakur for the petitioner and

Mr. Nikhil Agrawal, Assisting counsel to G.P. 30 for the State.

Mr. Surendra Kishore Thakur prays for disposal of the writ petition to enable the petitioner to take recourse to the statutory remedy of appeal.

It is the case of the petitioner that following institution of a criminal case for alleged violation of the terms and conditions of the coal license, that a police case was instituted giving rise to Motipur P.S. Case No. 3 of 1991 registered under Section 7 of the Essential Commodities Act.

The petitioner was a holder of two licenses bearing



Coal License No. 7 of 1984-85 as well as a license bearing No. 13 of 1985 for running a public distribution shop under provisions of the Bihar Trade Articles (License Unification) Order, 1984. It is the case of the petitioner that on account of institution of criminal case for alleged violation of condition of the coal license in 1991 that even the license of the petitioner under the Public Distribution System was not being renewed by the statutory authorities. It is his case that consequent upon acquittal of the petitioner in the police case registered for violation of the coal license vide judgment and order dated 3.11.2007, that he approached the statutory authorities i.e. the Sub-Divisional Officer, Muzaffarpur, West along with a copy of the judgment on 17.7.2008, a copy of which is placed at Annexure-7 to the writ petition with a prayer to renew the licence of the petitioner under the Public Distribution System and accept the license renewal fee but no order was passed. It is in these circumstances that the petitioner moved the revisional court of Commissioner and since the revision was preferred by the petitioner straightway without exhausting the appellate remedy that the revision was dismissed.

A counter affidavit has been filed. It is stated that the petitioner did not deposit the license fee since 1992. It is stated that the petitioner was holding two licenses. One license was for



dealing in coal and the other license for running a Public Distribution System shop. It is further admitted that a police case was instituted for violation of the coal licenses and though the petitioner was being proceeded for violation of the coal license but he never deposited the renewal fee for renewal of Licence under the Public Distribution System and as a consequence the license bearing No. 13 of 1985 for operating the Public Distribution System shop was automatically cancelled. It is stated that the petitioner has not moved the appellate court rather has straightway filed an application for renewal of license before the revisional court.

The issue is whether in absence of any order of cancellation and the admitted pendency of the police case registered against the petitioner for alleged violation of the coal license in which he stands acquitted, the petitioner is entitled to the renewal of his P.D.S. Licence even if he has not deposited the fee earlier since it is the case of the petitioner that the statutory authorities under the 'Unification Order' were not accepting the renewal fee in view of the pending criminal case.

These are disputed issues of facts which needs to be established but the fact remains that there is no order of cancellation on record.

By passage of time, the law regulating a license under the Public Distribution System has undergone a change and now it stands replaced by the Public Distribution System Control Order, 2001 as enforced in the State of Bihar by Bihar Fair Price Shop Order, 2007 w.e.f. 20.2.2007 (hereinafter referred to as 'the Control Order'). Any action of the licensing authority in not accepting the license renewal fee is appealable under Clause 15 of 'the Control Order'.

In the circumstances, the proper remedy for the petitioner would be to raise the issue before the appellate authority and which is also the decision of the revisional authority. This writ petition is accordingly disposed of with liberty to the petitioner to raise his grievance before the appellate authority and any such appeal being filed before the appellate authority within four weeks from today shall be considered and disposed of in accordance with law and after giving opportunity of hearing to the petitioner.

(Jyoti Saran, J)

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