

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14269 of 2014

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Raj Kishore Deo, son of Late Balmiki Deo, Resident of Fulidumar, P.S. Fulidumar,
Dist - Banka.

.... Petitioner

Versus

1. The State of Bihar.
2. Divisional Commissioner, Bhagalpur Division, Bhagalpur.
3. Superintendent of Excise, Excise Office, Banka, District - Banka.
4. Superintendent of Police, District - Banka.
5. Sub Divisional Officer, Banka.
6. Officer-in-Charge, Fulidumar, Dist - Banka.
7. Diwakar Jha, son of Late Shiwakant Jha, Resident of Village and Post - Banka,
P.S. - Amarpur District - Banka.
8. Sanjiv Deo
9. Manish Das, Both sons of Prabhunath Das, Resident of Village - Fulidumar, P.S.
Fulidumar, District - Banka.

.... Respondents

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Appearance :

For the Petitioner : Mr. Mritunjay Prasad Singh, Adv.

For the Respondents : Mr. Partha Sarthy, GA11

Mr. Mrigendra Kumar, AC to GA 11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 09-03-2015

The petitioner complains that the 3rd respondent,

i.e. Superintendent of Excise, Banka District, permitted the

respondent No.7 to establish a wine shop in Fulidumar

village, P.S. Fulidumar, District- Banka in contravention of

Rule 47 of the Bihar Excise Rules. He contends that the

shop is established just eighty metres away from the places

of worship such as Shiv Parwati Temple and Gayatri temple.

The respondents filed a counter affidavit stating that the licences are granted only after due verification of relevant facts and in compliance with the concerned Rules.

Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner places reliance on Rule-47 of the Bihar Excise Rules in seeking reliefs. According to him, the shop established by respondent No.7 is within a distance of 100 metres away from the place of worship mentioned above. The Rule prohibits establishment of any wine shop within 100 metres from certain places such as schools, religious institutions, petrol pumps etc.

If what is pleaded by the petitioner is true, the grant of licence to the 7th respondent becomes untenable in law. This, however, requires verification of facts. The year for which licence has been granted has almost, come to an end.

We, therefore, dispose of the writ petition directing that; (a) it shall be open for the petitioner to submit a representation to the 3rd respondent regarding the distance between the places of worship and the shop established by the 7th respondent; within a period of two weeks from today; and (b) the 3rd respondent shall take into account the representation submitted by the petitioner, in the context of

granting/renewing of licence for the area in the next financial year.

Interlocutory application, if any, stands disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Vikash Jain, J)

K.C.jha/-
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