

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9214 of 2013

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Laxman Prasad Agarwal S/O Late Raghunandan Agarwal Resident Of
Moh- Gosaibagh, Tekari Road, District- Gaya Petitioner
Versus

1. The State Of Bihar
 2. The Secretary Cum Ig Registration, Department Of Registration, Bihar,
Patna Respondents
- =====

Appearance :

For the Petitioner : Mrs.Archna Sinha, Advocate and
Mr.A.K.Shahi, Advocate
For the Respondents : Mr. Lalan Kumar, AC to GP 23

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH**
ORAL ORDER

5 17-08-2015 The petitioner is a stamp vendor. He seeks mandamus requiring the respondents to grant permission to sell the licensed stamp vendors non-judicial stamps and adhesive stamp in their limitation of Rs.5000/- to the customer. In other words, the petitioner submits that in case any stamp vender is not able to sell stamp up to the value of Rs.5,000/- to a customer, then only in such circumstance, the latter should choose an option of purchasing stamps and adhesive stamps from the Government treasury.

Case of the petitioner is that notification no. 1054 of 2005 (herein after referred to as 'the 2005 notification') of Principal Secretary, Registration gives an option to a Stamp vender to purchase the stamps and adhesive stamps either from stamp vender or from the treasury. The petitioner states that

such policy decision would affect his business and livelihood.

It is further case of the petitioner that the notification in question amounts to interference in the business of stamp vending and is contrary to the claim that respondents do not intend to interfere with the business.

The petitioner earlier moved this Court in the writ jurisdiction bearing C.W.J.C.No. 21892 of 2012 praying therein that the 2005 notification is contrary to the provisions of section 10 of the Indian Stamps Act, 1899 (herein after referred to as the Act. The writ petition was disposed of on 7.12.2012 with liberty to the petitioner to challenge the contents of the notice before the Principal Secretary, Registration Department by filing representation. The representation of the petitioner has been rejected by the Principal Secretary vide his order dated 4.3.2013, contained in Annexure 2. While rejecting petitioner's representation the respondent no.2 observed that the people have been given option to purchase the stamps from the treasury and 2005 notification in no way stops any one from purchasing stamps up to the denomination of Rs.5000/- per consumer. According to him, 2005 notification had become necessary as at times some of the vendors create artificial shortage and took

advantage of the situation by creating monopoly.

Counsel for the State submits that the petitioner has in fact not challenged the impugned order dated 4.3.2013, passed by the Principal Secretary, Registration, as such the writ petition is itself defective.

It appears that the petitioner, in essence, has challenged the said order as he extensively referred it in the writ petition. Even, in paragraph 4 of the writ petition, he states that he is aggrieved by order of respondent no.2 dated 4.3.2013 contained in Annexure 2.

Heard learned counsel for the petitioner and the State.

I find that respondent no.2 has spelt reasons for not withdrawing 2005 notification. He has observed in his order that at times some of the stamp vendors create artificial shortage and take advantage of the same, and create monopoly. The 2005 notification does not curtail the right of the Stamp vendors and thus cannot be said to be contrary to the provisions contained in section 10 and 10-A of the Indian Stamps Act.

The writ petition is disposed of with the aforesaid observations.

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(Samarendra Pratap Singh, J)