

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16574 of 2014

With
I.A. No.2239 of 2015

=====

1(a) Chandeshwar Roy
1(b) Shankar Roy
1(c) Rajdeo Roy

All are sons of original petitioner Jaglal Roy who has been expunged and substituted by the present order and are residents of village - Paiga Kala, Panchayat - Shekhpura, P.S. Bheldi, District - Saran (Chapra).

.... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Government of Bihar, Patna
2. The Commissioner, Saran Division, Chapra
3. The District Magistrate, Saran (Chapra).
4. The Sub-Divisional Officer, Marhorah, Saran (Chapra).
5. The Block Supply Officer, Amnour, Saran (Chapra).

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ram Kishore Singh

For the Respondent/s : Mr. Neeraj Raj, AC to SC-19

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 22-06-2015

Re: IA No.2239 of 2015:

This interlocutory application has been filed for expunging the name of the sole petitioner who has deceased during the pendency of the writ petition on 26.12.2014 and for his substitution by his legal heirs named in paragraph 4 of the interlocutory application.

Having heard learned counsel for the parties the prayer is allowed. Let the name of the sole petitioner Jaglal Roy be expunged from the memo of parties and be substituted by his

legal heirs named in paragraph 4 of the interlocutory application.

I.A. No.2239 of 2015 is allowed.

Re: CWJC No.16574 of 2014:

Heard the Parties.

The original writ petitioner late Jaglal Roy had filed the writ petition questioning the cancellation of his licence issued under the provisions of the Public Distribution System (Control) Order, 2001 as enforced vide Fair Price Shop Order, 2007 (hereinafter referred to as 'the Control Order') by the Licensing Authority –cum- Sub-Divisional Officer, Marhowrah, District- Saran (Chapra) vide order bearing Memo No.1786 dated 28.9.2011.

Facts of the case briefly stated is that owing to certain irregularities the licence of the original petitioner bearing No.41 of 2007 was cancelled by the Licensing Authority –cum- Sub-Divisional Officer, Marhowrah, Saran and a copy of the order dated 28.9.2011 is placed at Annexure-1 to the writ petition. The licence-holder was also subjected to a criminal case arising from Bheldi P.S. Case No.86 of 2011 registered under section 7 of the Essential Commodities Act and sections 467, 468, 471 and 420 of the Indian Penal Code. The criminal



case was put to trial and vide judgment and order passed by the Sub-Divisional Judicial Magistrate, Saran at Chapra on 10.9.2013 the original licence-holder Jaglal Roy along with two others were acquitted of the charges. A copy of the judgment is placed at Annexure-3 to the writ petition and it is following the acquittal the original licence-holder filed representations before the Licensing Authority –cum- Sub-Divisional Officer for restoration of his licence. The grievance of the licence-holder was that his representations filed before the Licensing Authority on 21.9.2013 and 24.2.2014 placed at Annexures 4 and 5 to the writ petition has remained pending and has not yet been disposed of. Unfortunately while the matter remained pending before this Court the original licence-holder Jaglal Roy deceased and has been substituted by his legal heirs. The legal heirs have authorised Chandeshwar Roy to pursue the matter on behalf of their late father.

I have heard Mr. Ram Kishore Singh, learned counsel appearing on behalf of the petitioner and Mr. Neeraj Raj, learned Assisting Counsel to Standing Counsel No.19 for the State.

The limited prayer made by learned counsel appearing on behalf of the petitioner is that since the original



licence-holder had been acquitted of all the charges in the trial, the representations filed on his behalf for restoration of the licence requires disposal. It is further the submission of learned counsel for the petitioner that in view of Clause 2.5 of 'the Control Order' the legal heirs of the deceased licence-holder are entitled for transfer/grant of licence in place of his father.

An oral submission has been made by Mr. Ram Kishore Singh, learned counsel appearing for the petitioner that a representation in this regard has already been filed, but in my opinion, since the copy of the same is not on record hence it would be advisable that the petitioner file a fresh representation explaining the circumstance and raising his claim for restoration and transfer of licence.

Mr. Neeraj Raj, learned Assisting Counsel to Standing Counsel No.19 while opposing the prayer has submitted that it is not known whether the institution of criminal case was the sole basis for cancellation of licence or there were other charges.

Since the matter is yet open for consideration before the Licensing Authority I would not enter into the merits of the case at this stage and the matter is left open for decision by the Licensing Authority on the prayer so made.

Having heard learned counsel for the parties and taking note of the circumstances existing, the writ petition is disposed of with liberty to the legal heir of deceased petitioner Jaglal Roy to file an appropriate application before the Licensing Authority –cum- Sub-Divisional Officer, Marhowrah, Saran for restoration as well as grant/transfer of licence in his favour in the backdrop of the judgment and order of acquittal and it goes without saying that any such representation filed by the legal heir of the deceased licence-holder would be considered and disposed of by the Licensing Authority –cum- Sub-Divisional Officer, Marhowrah, Saran in accordance with law and after giving opportunity of hearing to the applicant expeditiously and preferably within a period of three months from the date of filing of the representation.

(Jyoti Saran, J)

SKPathak/-

U			
---	--	--	--