

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13119 of 2015

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1. Ramjanam Yadav Son of Mahaveer Yadav, resident of Village/Mohalla-Tadhawanandpur, P.S. Bairiya District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner of Excise, Bihar, Patna.
3. The Joint Commissioner Excise, Bihar, Patna.
4. The Collector-cum-District Magistrate, West Champaran at Bettiah.
5. The Superintendent of Excise, West Champaran, Bettiah.
6. The Inspector of Excise, West Champaran, Bettiah.
7. Smt. Sharda Devi, Wife of Arjun Yadav, resident of Village-Baikunthwa, Post Mangalpur, District- West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate.
For the Respondent/s : Mr. Lalit Kishore- Paag

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

4 15-09-2015 By order, contained in Memo No.1412, dated 04.08.2015 (Annexure-D to the counter affidavit), the license, granted to the petitioner to run Liquor Shop, was cancelled. For the purpose of cancelling the petitioner's license, ground assigned by the Licensing Authority, is that the writ petitioner had failed to pay licence fee for the month of July, 2015, a show cause notice, contained in Memo No.1334, dated 23.07.2015, was issued by the Excise Superintendent, West Champaran, at Bettiah, informing the writ petitioner, as licensee, that he was in arrears of the licence fee for the month of July, 2015, and though the writ

petitioner, on receiving the notice, sought three days' time to submit his show cause, he did not do so nor did he appear before the Licensing Authority and the licensee failed to avail the opportunity of personal hearing afforded to him by the Licensing Authority, licence was cancelled by order, dated 04.08.2015.

Upon cancellation of the petitioner's license, the authority concerned proceeded to make settlement of the shop, in question, anew and accordingly, vide Memo No.1416, dated 05.08.2015, respondent No.7, namely, Sarda Devi, whose name was at serial No.2 of the group lottery, was invited to take settlement of liquor shop.

Aggrieved by the cancellation of his license and also by the fact that respondent No.7 had been invited to receive the settlement of the shop, in question, which the writ petitioner had been running as the licensee, the writ petitioner has come to this Court with the present writ petition, made under Article 226 of the Constitution of India, seeking, *inter alia*, issuance of a writ setting aside and quashing the order, dated 05.08.2015, whereby respondent No.7 had been called to give the settlement of the liquor shop, which the petitioner had been settled on 15.03.2015.

Heard Mr. Bimlesh Kumar Pandey, learned Counsel, appearing on behalf of the petitioner, and Mr. Ranjeet Kumar, learned Assistant Counsel to Principal Additional Advocate

General, appearing on behalf of the State-respondents.

When the writ petition was taken up for admission hearing, it was pointed out by the Court that the writ petitioner had the remedy of an appeal against the order, dated 04.08.2015, whereby the writ petitioner's license has been cancelled.

It is the submission, made on behalf of the petitioner, that the writ petitioner may be allowed to withdraw this writ petition with liberty to prefer appeal before the competent authority against the order of cancellation, dated 04.08.2015.

To the submissions so made, no objection has been raised by the learned counsel for the respondents.

In view of the above and in the interest of justice, we dispose of this writ petition as withdrawn with liberty to the writ petitioner to prefer an appeal as has been sought for on his behalf. We, however, make it clear that if the appeal is decided against the petitioner, petitioner shall have the liberty to take recourse to such provisions of law as may be permissible.

Before parting with the writ petition, we also make it clear that it is the case of the writ petitioner that he could not run the shop, because of the fact that local residents of the area, where the shop is located, had raised their objection and this aspect of the case ought to have been taken into account by the respondent, who has cancelled the petitioner's license. This is an

aspect, which needs to be taken into consideration by the respondent concerned, while deciding the appeal if preferred by the writ petitioner.

(I.A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

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