

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8835 of 2016

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1. Tadi Vaosai Kalyan Sangh through its Chairman Choudhary, son of Shri Raj Kumar Choudhary, Resident of Piara Math, Post Bajhiyan, Dist. Saran.
 2. Narendra Kumar, Son of Narayan Choudhary, Resident of Village Sikandrapur, Post Shahpur, Danapur Cant, Dist. Patna.

.... Petitioners

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Registration, Excise and Prohibition Department, Bidyut Bhawan, Bailey Road, Patna.
3. The Director General of Police, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Dinu Kumar, Advocate
Mr. Rajesh Kumar Singh, 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 29-06-2016 Heard Mr. Dinu Kumar, learned Counsel for the petitioners, and Mr. Lalit Kishore, learned Principal Additional Advocate General, appearing for the State-respondents.

This writ petition, which has been made under Article 226 of the Constitution of India, in the form of Public Interest Litigation, seeks the following reliefs:-

(a) For declaring the order dated 5.4.2016 issued under the signature of Principal Secretary, Government of Bihar, Registration, Excise and Prohibition Department as contained in Annexure-2

is contrary to the spirit of departmental notification no. 187 dated 1st of April, 1991 with respect to the business of toddy which is quoted in paragraph no.5 of this writ application.

(b) Also for directing the State Respondents specially the Chief Secretary to the Government of Bihar and Director General of Police to ensure no person by caste Pasi schedule caste involved in the business of toddy be taken into custody pursuant to the direction contained in letter no. 1493 dated 5.4.2016 as contained in Annexure-2 specially those who are following the direction contained in the notification no. 187 dated 1.4.1991 to run the business of toddy in open shop at appropriate place.

(c) Also for declaring that to run the business of toddy pursuant to notification no. 187 dated 1.4.1991 has not been recalled or rescinded after the Bihar Excise Amendment Act, 1916, Bihar Act, 1916 vide notification dated 31.3.2016 which has come into effect from 1.4.2016.

(d) For any other relief or reliefs for which the petitioner is entitled as your Lordships may deem fit and proper.

Having regard to the pleadings made in the writ petition as well as counter affidavit, we are of the view that a Public Interest Litigation cannot be entertained in respect of the impugned notification, dated 05.04.2016, issued by the Principal

Secretary, Government of Bihar, Registration, Excise and Prohibition Department, inasmuch as the person, who is aggrieved by any order of the respondents, may take recourse to the relevant provisions of law including making writ application under Article 226 of the Constitution of India in this Court.

However, for the limited purpose of ensuring that no illegal or undue harassment is caused to any one, we make it clear that while enforcing Bihar Excise Amendment Act, 1916, with regard to the prohibition relating to *toddy* (tari) the enforcing authorities shall bear in mind the provisions of Rule 47 of the Rules framed by the State Government, read with the notification, dated 01.04.1991, issued by the Governor of Bihar making amendments in the prohibition of law relating to *toddy* (*Tari*).

With the above observations and directions, this writ application shall stand disposed of.

(I.A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

A.I./-

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