

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1376 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 6127 of 2012

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Punyadev Singh, son of Late Shiv Lal Singh, resident of Village- Husapur, Block-
Sahebganj, District- Muzaffarpur.

.... Appellant

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
3. The Collector, Muzaffarpur.
4. The Sub-Divisional Officer-cum-Licensing Authority, West Muzaffarpur, District- Muzaffarpur.

.... Respondents

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Appearance :

For the Appellant : Mr. Suraj Narain Yadav, Advocate.
Mr. Upendra Kumar Chaubey, Advocate.
Ms. Annu Shree, Advocate.

For the State : Mr. Manish Kumar, A.C. to G.P. 28.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 14-07-2016

Heard learned counsel for the parties.

2. The order dated 18th of January, 2013 passed by the learned Single Bench of this Court in C.W.J.C. No. 6127 of 2012 is subject matter of challenge in the present Letters Patent Appeal.

3. The writ application was directed against an order dated 21st of January, 2012 passed by the Sub-Divisional Officer, West, Muzaffarpur cancelling the Public Distribution System Licence granted to the appellant. The learned Single Bench has held that there is statutory remedy of appeal and, therefore, the Court was

not inclined to entertain the writ application but a direction was issued that if an appeal is filed, the same shall be decided expeditiously, preferably within a period of four months.

4. The appellant was served with a show-cause notice as to why his licence should not be cancelled on 10th of June, 2010. It is thereafter, the licence was cancelled on 21st of January, 2012 on the basis of the report of a Committee under the Chairmanship of District Magistrate, Muzaffarpur dated 12th of November, 2011.

5. Learned counsel for the appellant contends that the District Level Selection Committee came to be abolished on 20th of June, 2011. Therefore, there could not be any recommendation which could form basis of the order passed by the Sub-Divisional Officer. He also relies upon the orders passed by this Court in C.W.J.C. No. 23791 of 2012 (Manoj Sahani Vs. The State of Bihar & Ors.) on 4th of January, 2013, whereby even though an objection of availability of alternative remedy was raised but the Court entertained the writ application and set aside the cancellation of licence. Following the said order, many orders have been passed by another Bench in similar matters.

6. We have heard learned counsel for the parties and find no merit in the present Letters Patent Appeal.

7. The Public Distribution System (Control) Order, 2001 confers right of appeal as contemplated in Clause 11 thereof. Once an

order of cancellation of licence is made appealable, this Court would be slow in interfering with the orders which can be impugned in an appeal.

8. The reliance of the appellant on the order passed in Manoj Sahani's case is not tenable for the reason that in the aforesaid case, the Court interfered in the writ application even though there was alternative statutory remedy. The Court has the judicial discretion to interfere against the order of cancellation of a licence in exercise of the writ jurisdiction of the Court even when the remedy of appeal is available but where the Court has not interfered with the order of cancellation of licence on account of availability of an alternative remedy, same cannot be said to be illegal or unwarranted which may warrant interference in the Letters Patent Appeal.

9. Consequently, we do not find any merit in the present Letters Patent Appeal. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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