

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8241 of 2014

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1. Md. Anjar Khan Son of Late Ashik Khan Resident of Village - Sihuli, P.S. Amas, District - Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj and Gramin Development Department, Old Secretariat, P.S. Sachiwalay, District - Patna.
2. The District Magistrate, Gaya, District - Gaya.
3. The Sub Divisional Officer, Gaya, District - Gaya.
4. The Block Development Officer, Sherghati, District - Gaya.
5. The Mukhiya, Gram Panchayat Raj Kalwan, P.S. - Amas, District - Gaya.
6. The Executive Officer, Gaya Nagar Panchayat, Sherghati, District - Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arbind Kumar Sinha, Adv.
Mr. Sudhir Kumar Sinha, Adv.

For the Respondent/s : Mr. Dharendra Kumar, A.C. to AAG.10

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 06-05-2016

Heard Mr. Arbind Kumar Sinha, learned counsel for the petitioner and Mr. Dharendra Kumar who appears as A.C. to AAG 10 as well as for the Executive Officer Nagar Panchayat, Sherghati and has filed counter affidavit on their behalf.

The petitioner is aggrieved by the order dated 27.1.2014 passed by the Executive Officer whereby the prayer for the petitioner for grant of licence has not been accepted. A copy of such order is placed at Annexure-2 to the writ petition. This is the 3rd writ petition in the chain of litigations preferred by the petitioner.

The facts briefly stated is that the licence of the petitioner to sell meat at Naya Bazar within the jurisdiction of Nagar Panchayat, Sherghati in the district of Gaya was cancelled by the Executive Officer on 13.2.2009 and was questioned before this Court in



C.W.J.C.No.3590 of 2009 inter alia on grounds that the order was passed ex parte and without hearing the petitioner. A coordinate Bench taking note of the uncontested grievance raised by the petitioner, quashed the cancellation order and remitted the matter for fresh consideration. The licence of the petitioner to sale Buffalo meat bearing No. 1 of 2009 was again cancelled on remand and communicated to him vide memo No.660 dated 22.12.2011. The second cancellation order was questioned by the petitioner before this Court in C.W.J.C.No.1986 of 2012 and which was disposed of by a Bench of this Court vide order passed on 27.7.2012 placed at Annexure-1 requiring the Executive Officer to indicate the reasons on which he has reached the conclusion that the restoration of the buffalo meat shop would cause a communal tension. Surprisingly, even when the writ court did not choose to set aside the order of cancellation of licence passed on 22.12.2011 the said order of the writ Court was not questioned by the petitioner before a superior forum. It is, thereafter that the matter was considered by the Executive Officer for the third time.

The petitioner himself accepted to shifting of the buffalo meat shop to another village on a piece of land stated to have been gifted by his mother. The Executive Officer considering the series of cases instituted by the petitioner for running of the shop as well as his desire to shift his meat shop to another village which fell beyond the

territorial jurisdiction of the Nagar Panchayat, Sherghati, he found no reason to either restore or grant fresh licence to the petitioner. A specific statement to such effect has also been made by the Executive Officer in paragraphs 7 and 8 of the counter affidavit which goes uncontested as no rejoinder has been filed thereto although a copy of the same has been served on the petitioner almost a year ago.

A part from the fact that the reasons assigned by the Executive Officer in the order impugned at Annexure-2 for not issuing licence to the petitioner justifies the decision, these reasons have not been contested by the petitioner either in his writ petition or by filing a rejoinder to the counter affidavit. Even otherwise taking note of the fact that this Court in the earlier round of litigation did not choose to interfere with the order of cancellation, in my opinion, a mere remand of the matter for assignment of reasons by the Executive Officer for reaching the same conclusion would not give a fresh cause of action for the petitioner to maintain the writ petition which is accordingly disposed of.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	
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