

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.110 of 2015

In
Civil Writ Jurisdiction Case No. 6637 of 2014

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Nand Kishore Prasad Sah, son of Late Jagat Narain Prasad, R/O Village-
Hussaini, P.O. Hussaini, Block Kesharia, P.S. Dumariya, District- East
Champanan.

.... Petitioner/Petitioners

Versus

1. The State of Bihar through the Secretary, Forest Department,
Government of Bihar, Patna.
2. The Principle Chief Conservator of the Forest, Bihar, Patna.
3. The Regional Conservator of the Forest, Muzaffarpur.
4. The Conservator of Forest, Siwan.
5. The Divisional Forest Officer, Motihari, Forest Division, Motihari.
6. The Commissioner, Tirhut Division, Muzaffarpur, District-
Muzaffarpur.

.... Respondents/Opposite Parties

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Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate with
Mr. Vijay Anand

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 30-03-2016 Heard Mr. N.K. Agrawal, learned senior counsel

appearing for the petitioner. There is no representation on behalf
of the State.

This civil review application has been filed for
review of the order dated 29.1.2015 passed by this Court in
CWJC No.6637 of 2014, whereby the writ petition was
dismissed.

The writ petition was filed, inter alia, for quashing
an order dated 30.12.2013 whereby the licence of the petitioner
bearing no. 410 of 1999 was cancelled.



It is the submission of Mr. Agrawal, learned senior counsel appearing for the petitioner that the writ petition was dismissed taking note of the submission advanced by the learned State Counsel in reference to the statement made in the counter affidavit filed in the writ petition in which it was stated that the licence of the petitioner was cancelled by order bearing Memo no.3886 dated 29.12.1999 placed at Annexure-B to the counter affidavit and which was never questioned by the petitioner before the appellate forum. It was sought to be canvassed by the respondents that despite such position, the petitioner by creating confusion in absence of records which was not traceable, has obtained renewal of licence until 2012 and which was cancelled by the order impugned in the writ petition.

It is argued by Mr. Agrawal that this Court taking note of the earlier cancellation dated 29.12.1999 which as per the statement made by the respondents had attained finality was not persuaded to grant indulgence to the grievance raised and the writ petition was dismissed.

Mr. Agrawal fairly admits that though the cancellation order dated 29.12.1999 is a subject matter of appeal proceeding before the appellate authority and was yet pending when the order impugned in the writ petition had been passed



but it was neither placed on record nor any information was brought to the notice of the Court. He submits that the statutory appeal filed by the petitioner bearing Appeal No.2 of 2015 arising from Appeal No.10 of 2003 was dismissed only on 4.2.2016 and a copy of such order is placed at Annexure-D to the counter affidavit of State filed in the review application. It is thus submitted that the respondents had mislead this Court to submit that the petitioner had not questioned the cancellation order dated 29.12.1999 before any forum when the fact is that an appeal was filed and was pending.

It is next submitted that since the very premise regarding the petitioner not questioning the earlier order of cancellation of licence before the superior forum which is the foundation of the order passed in the writ proceedings was not correct hence the petitioner has made out a case for review of the order passed in the writ petition.

A counter affidavit has been filed by the State and while it does refer to the merits of the claim raised by the petitioner but one fact is admitted and i.e. that the cancellation order dated 29.12.1999 was a subject matter of Appeal No.10 of 2003 which was renumbered as Appeal No.2 of 2015 and has ultimately been dismissed on 4.2.2016 vide Annexure-D to the

counter affidavit. It is apparent that this relevant fact was suppressed by the Divisional Forest Officer while filing his affidavit in the writ proceedings and which has misled this Court into believing that the petitioner was not pursuing his cause.

The facts noted above are by itself sufficient to allow this civil review application which is accordingly allowed and as a consequence the order dated 29.1.2015 passed in CWJC No.6637 of 2014 is hereby recalled.

Let the writ petition be placed before the appropriate Bench as per the roster after obtaining permission of Hon'ble the Chief Justice for hearing and disposal afresh.

Let the records of review application be also placed along with the writ petition.

(Jyoti Saran, J)

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