

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12537 of 2006

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Md.Jasimuddin

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Anand, Adv.

For the Respondent/s : Mr. Raj Ballabh Pd. Yadav, Adv.

Mr. Dinesh Maharaj, AC to AAG -11

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

15 01-11-2017

I.A. No. 5451 of 2016

Heard learned counsel for the petitioner and learned
counsel for the State.

This Interlocutory Application has been filed for
expunging the name of the deceased sole petitioner, namely, Md.
Jasimuddin, and for substitution of his heirs and legal
representatives, who have filed this application and vakalatnama.

It is contended that the widow of the deceased-
petitioner, namely, Bibi Majluma Begum, had also died on
24.02.2009. It is also contended that the substitution petition was
allowed vide order passed in MJC NO. 3614 of 2012.

Accordingly, this Interlocutory Application is
allowed.

Let the name of the deceased sole petitioner, namely,
Md. Jasimuddin, be expunged and the names of the proposed



heirs and legal representatives as mentioned in paragraph -2 of the interlocutory application, namely, Md. Mosimuddin son of late Md. Jasimuddin, resident of village Mirzapur Bardah, P.S. Muffasil, District Munger and Bibi Nargis Banoo, daughter of Late Md. Jasimuddin, wife of Md. Mustaffa , resident of village Mamarganj, P.S. Sultanganj, District Bhagalpur be substituted in his place.

C.W.J.C. No. 12537 of 2006

1. Md. Mosimuddin son of late Md. Jasimuddin, resident of village Mirzapur Bardah, P.S. Muffasil, District Munger.

2. Bibi Nargis Banoo, daughter of Late Md. Jasimuddin, wife of Md. Mustaffa , resident of village Mamarganj, P.S. Sultanganj, District Bhagalpur.

Versus

1. The State of Bihar
2. The Collector, Munger
3. The S.D.O. Sadar Munger.

Heard learned counsel for the petitioners and learned counsel for the State.

This application has been filed for quashing the order dated 16.09.2006 as contained in Annexure-3 by which licence no. 9/85 granted under the Bihar Trade Articles (Licences Unification) Order, 1984 under which the original petitioner was running a PDS shop was cancelled on the ground of irregularity found in an inquiry conducted by the Cabinet Vigilance Bureau.



It is contended on behalf of the petitioners that the order is non-speaking and unreasoned and there has been no consideration of the reply to the show cause notice filed by the original petitioner and that been done on the basis of the alleged inquiry conducted by the Cabinet Vigilance Bureau. It is further contended that several orders have already been passed by this Court after setting aside identical orders passed in this regard in which licenses have been cancelled in mechanical manner in cyclostyled format on the basis of report of concerned Vigilance Committee. A copy of which decision has been produced at the time of hearing of this application which has been passed in CWJC No. 14764 of 2011 (Jagdama Paswan v. The State of Bihar & Ors.) on 09.04.2013.

I find force in the submission raised on behalf of the petitioners. The issue is no longer *res integra* as the same has been decided in several matters including in CWJC No. 12675 of 2006 (Ram Uday Singh Vs. The State of Bihar & Ors.) which has been referred in the aforesaid order itself.

Accordingly, this writ application also stands allowed in terms of the order passed in CWJC No. 14764 of 2011 (Jagdama Paswan v. The State of Bihar & Ors.) with only distinction that since there was no inordinate delay in filing of the



present writ application, thus, there would be no order of imposition of cost upon the petitioners.

As a result, the impugned order dated 16.09.2006 as contained in Annexure-3 is quashed.

In view of the fact that the terms of the licence has already come to an end by efflux of time, it shall be open to the petitioner to apply afresh in accordance with the Control Orders for compassionate appointment of the PDS dealership which shall be considered in accordance with law and disposed of within a period of six (6) weeks from the date of filing of the application. If it is found that the petitioners are eligible, the authorities shall take an appropriate decision in the matter and pass necessary orders.

(Anjana Mishra, J)

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