

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14710 of 2015

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Surendra Prasad, S/o Heera Lal, resident of village- Neemganj, P.S. Biharsharif,
District- Nalanda, Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Department of Food and Civil Supplies, Govt. of Bihar, Patna.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Divisional Commissioner, Patna Division, Patna
4. The District Magistrate-cum-Collector, Nalanda at Bihar Sharif.
5. The District Supply Officer, Nalanda.
6. The Sub-Divisional Officer, Nalanda at Biharsharif.
7. The Marketing Officer, Nalanda.
8. The Assist District Supply Officer, Nalanda at Biharsharif.

.... Respondent/s

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Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. Anil Kumar Sinha, GA9

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 31-10-2017

No one appears for the petitioner. Counsel for the State is present.

In the present writ application, the petitioner has sought a relief of mandamus commanding upon the respondents to immediately grant license for Kerosene oil vending to the petitioner with immediate effect and also requested to issue a show-cause why the respondents are violating the order dated 26.6.2013 passed in C.W.J.C. No. 23101 of 2011.

As per petitioner, the vending license vide no. 471 of



1985 was initially given to Raj Deo Giri, son of late Shiv Sagar Giri and, in the year 2002, the name of the present petitioner was inserted as co-licensee from the order of the authority concerned. In the year 1985, one Raj Deo Giri was granted license of vender dealer bearing Licence No. 471 of 1985 of Ward No. 16 at Bihar Sharif, Nalanda and since grant of licence, he was carrying out his business honestly and sincerely. In the year 2001, he met with an accident and became physically handicapped, weak and developed different types of ailments. Raj Deo Giri filed an application for addition of the name of petitioner as joint licensee and having considered the grievance, the authority concerned conducted enquiry, issued order for addition of the petitioner as co-licensee of license no. 471 of 85 for vending kerosene oil. Said Raj Deo Giri had gone to Delhi but, never returned but, he continued to carry out the business of kerosene oil vending. Suddenly vide Memo No. 623 dated 10.5.2011, notice was issued, was asked to remain physically present at 4 O'clock on 12.5.2011 in the office of Sub-Divisional Officer, Bihar Sharif mentioning therein that when the license was granted to Raj Deo Giri, under what authority, the petitioner has lifted and vending the kerosene oil. After receipt of the notice, he appeared at scheduled time and due date along with relevant documents including copy of affidavit which reflects that he had already informed that the original licensee Raj



Deo Giri is no more interested to retain the dealership of kerosene oil but, the Licensing Authority vide Memo No. 641 dated 16.5.2011 cancelled the license no. 471 of 1985 with immediate effect. Being aggrieved by the said action, the petitioner approached to the District Magistrate, Nalanda but, it did not give any fruitful result. The petitioner has filed writ application being C.W.J.C. No. 23101 of 2011 which was disposed of having held that as the petitioner has not made out any case, no relief can be granted but, was given liberty that he can apply for the fresh license but, instead of applying for the fresh license, the petitioner has again filed the present writ application with the same relief as was claimed by the petitioner in the earlier writ application raising same grievance which has already been adjudicated in the earlier proceeding which completely occupies the field and hit by principle of res judicata and, for the same issue, the petitioner cannot be allowed to approach this Court again and seek same relief.

Learned counsel for the State has submitted that it is nothing but an abuse of the process of court and require dismissal with cost.

The case was listed yesterday but, no one appeared on behalf of the petitioner. Today also, no one has appeared and already the petitioner has earlier approached this Court for the same cause of



action and that matter has already been adjudicated on merit. In that view of the matter, this application is dismissed.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.11.2017
Transmission Date	NA

