

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No.255 of 2016

Ajay Gupta, S/o Jagarnath Gupta, aged about 40 years, R/o In front of Dwarikapuri, Nawadih, NTPC Sipat, Bilaspur, CG, Through its Power of Attorney Holder – Abhimanyu Kumar Singh, S/o Late Shri Shrikant Singh, aged about 34 years, R/o Rajkishore Nagar, Police Station Sarkanda, Post Sarkanda, Tehsil & District Bilaspur, CG.

(Respondent No.5)

---- Appellant

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Excise, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (C.G.)

(Respondent No.1)

2. Collector, Bilaspur, Collectorate Building, District Bilaspur (C.G.)

(Respondent No.2)

3. Excise Commissioner, Department of Excise, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (C.G.)

(Respondent No.3)

4. Assistant Commissioner, Department of Excise, Bilaspur, In front of Collectorate Building, Bilaspur (C.G.)

(Respondent No.4)

5. Dwarikesh Pandey, S/o Late Shri Awadh Bihari Pandey, aged about 54 years, R/o Dwarikapuri, Nawadih, NTPC, Sipat, Bilaspur, (C.G.)

(Petitioner)

---- Respondents

For Appellant: Mr. Manoj Paranjpe, Advocate.

For State/Respondents No.1 to 4: -

Mr. Prafull N. Bharat, Additional Advocate General.

For Respondent No. 5: -

Mr. Prateek Sharma, Advocate.

Hon'ble the Acting Chief Justice and
Hon'ble Mr. Justice Sanjay K. Agrawal

Order On Board

Sanjay K. Agrawal, J

02/03/2017

1. Mr. Dwarikesh Pandey filed a writ petition before this Court being W.P.(C)No.770/2016 in which the writ court by interim order dated 11-5-2016 directed the State authorities that the excise shop run by Ajay Gupta, the appellant herein, be shifted to other place from the present place where it is operating at present. Questioning that order, this writ appeal has been filed by the appellant stating that his right has been finally decided by the writ court.
2. Objection as to maintainability was raised that this writ appeal against the interim order is not maintainable under Section 2 (1) of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006.
3. The matter was ultimately referred to Full Bench and by order dated 25-1-2017 it has been held by the Full Bench that appeal would lie against those orders which cannot be undone at the time of final hearing and which have an element of finality attached to them.
4. Learned counsel for the writ appellant submits that in view of the order of the Full Bench, this writ appeal is maintainable. However, learned counsel for the appellant as well as learned counsel for the respondents would submit that the period of license to run the shop in question would expire on 31-3-2017, therefore, it would be appropriate if original writ petition is heard expeditiously by the writ

court and till then the interim order granted by this Court on 17-5-2016 as affirmed on 21-6-2016 be continued.

5. We have heard learned counsel for the parties.
6. Undisputedly, the period of license to run the shop in question allotted to the appellant herein is to expire on 31-3-2017 and the writ petition is pending final adjudication before the writ court awaiting outcome of this writ appeal. Looking to the nature of dispute involved, reliefs claimed in the writ petition, challenge made in the writ appeal and impact of final outcome of the writ appeal to the writ petition, we are of the considered opinion that the writ petition deserves to be heard finally and expeditiously as well.
7. Accordingly, we request the learned writ court to dispose of the writ petition expeditiously. However, as agreed by the parties till the writ petition is decided finally, the interim order dated 17-5-2016 as affirmed on 21-6-2016 by this Court shall remain in operation. All the points urged by the parties herein are left open to the parties to be raised in the writ petition.
8. With the aforesaid observation, the writ appeal stands finally disposed of.

Sd/-
(Pritinker Diwaker)
Acting Chief Justice

Sd/-
(Sanjay K. Agrawal)
Judge