

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2521 of 2019

Abdur Rahman, S/o Gayasudeen, Ward No.09, Village-Chopra, Tola Boulan, P.O.-Dhusmal, P.S.-Routa, Block-Baisa, Dist.-Purnea

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Food and Civil Supply Govt. of Bihar, Patna
2. The Principal Secretary Food and Civil Supply, Bihar, Patna
3. The Divisional Commissioner, Patna
4. The District Supply Officer, Baisha, Purnea
5. The Sub-Divisional Officer, Baishi, Purnea
6. The Block Supply Officer, Baishi

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Alok Ranjan
For the Respondent/s : Mr. Arvind Ujjwal (SC4)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 30-04-2019 The Court is not persuaded to entertain this writ application because the order by which the licence of the petitioner was cancelled was passed on 22.11.2012. The petitioner had a remedy available in law to file an appeal against the impugned order, but he did not choose to seek his remedy in accordance with law.

Learned counsel for the petitioner submits that the licence of the petitioner was cancelled only on the ground that one FIR was lodged against him. It is submitted that the delay and laches would not come in the way of the petitioner in maintaining his writ application before this Court because the



respondent authorities have violated the statutory provision whereunder the cancellation could have been done only after holding an appropriate inquiry and after giving an opportunity of hearing. Learned counsel has also submitted that the fair price shop in question has not been allotted to any third party. Learned counsel has also relied upon a judgment of the learned coordinate Bench of this Court in the case of **Umesh Ram Vs. The State of Bihar and others** reported in **AIR 2014 Patna 113** in which it has been held that the registration of a criminal case alone cannot be a ground for cancellation of the licence. Reliance has also been placed on a judgment of this Court in the case of **Indu Kuer Vs. The State of Bihar in CWJC No.1837 of 2019** to submit that in similar circumstance this Court had negatived the view of the delay and laches.

On the other hand, learned counsel representing the State submits that this writ application is fit to be dismissed on the ground of delay and laches alone. It is submitted that the petitioner was served with a show cause notice in this case, he had failed to submit a reply thereto. The Sub-Divisional Officer had passed the impugned order taking into consideration the seriousness of the allegations which had remained uncontroverted. It is further submitted that the judgments cited



on behalf of the petitioner would not help the petitioner inasmuch as it would appear from the learned coordinate Bench judgment of this Court in the case of **Umesh Ram** (supra) that in the said case the petitioner had availed the remedy of appeal before the Collector, but his appeal was also dismissed. In the present case, there is no reason much less any plausible reason stated in the writ application to show that as to why the petitioner did not avail his statutory remedy of appeal and has now chosen to move this Court directly under Article 226 of the Constitution of India after more than six years.

It is further pointed out that in the case of **Indu Kuer** (supra) the circumstances were different. In the said case, the impugned order was challenged by two other petitioners in two different set of writ applications which were filed in the year 2015 and those writ applications came to be considered by this Court only after more than three years on 18.08.2018. This Court having noticed that these writ applications were disposed off only on 18.08.2018 entertained the writ application and disposed of the same in terms of the order dated 25.01.2019 passed in CWJC No.1394 of 2019. In the present case, the impugned order was not under challenge in any proceeding.

Having considered the rival submissions at the bar



and on going through the impugned order, this Court finds that the licence of the petitioner was cancelled as back as on 22.11.2012. In the writ application, the petitioner has not explained the facts and circumstances under which he could not avail his statutory remedy of appeal save and except to say that he had approached the Sub-Divisional Officer and then for redressal of his grievance he had submitted the representations as contained in Annexure-4 series to the writ application. A perusal of Annexure-4 series would show that the representations have been sent through speed post on 21.12.2018, thus, it is apparent to this Court that on record there is neither any pleading nor any material to show that the petitioner was pursuing his remedy with due diligence during all these periods for over six years.

This Court finds no reason to interfere with the impugned order at this stage in exercise of its power under Article 226 of the Constitution of India. The writ application is, thus, dismissed.

(Rajeev Ranjan Prasad, J)

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