

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.654 of 2018

In
Civil Writ Jurisdiction Case No.17289 of 2017

=====

Bihar Kerosene Dealers Association Through Its President Namely Surendra Prasad Son of Late Ram Chandra Prasad, having registered office at Dhanki More, Kumhrar, P.O.- Bahadurpur Housing Colony, P.S. Agam Kuan, District- Patna, Presently residing at Village and P.S.- Dighwara, District- Saran.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Department, Government of Bihar, Old Secretariat, Patna
2. Additional Secretary, Food and Consumer Department, Government of Bihar, Old Secretariat, Patna.
3. O.S.D., Food and Consumer Department, Government of Bihar, Old Secretariat, Patna.
4. Union of India, through the Secretary, Ministry of Petroleum and Natural Gas, Shastri Bhawan, New Delhi- 110001
5. The Under Secretary, Government of India, Ministry of Petroleum and Natural Gas, having its office at Shastri Bhawan, New Delhi- 110001
6. The Director General, Petroleum Planning and Analysis Cell, Scope Complex, Core-8, Lodi Road, New Delhi- 110003
7. The Director (S & P), Petroleum Planning Section, Ministry of Petroleum and Natural Gas, having its office at Shastri Bhawan, New Delhi- 110001.

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mrs.Namrata Mishra, Advocate
For the U.O.I.	:	Mr. Anshay Bahadur Magthur, Advocate
For B.P.C.L.	:	Mr. Siddhartha Prasad, Advocate
		Mr. Om Prakash Kumar, Advocate
For H.P.C.L.	:	Mr. Neeraj Kumar Gupta, Advocate
For IOCL	:	Mr. Amlesh Kumar Verma, Advocate
For the State	:	Mr. S. Raza Ahmad, AAG-5
		Mr. Alok Ranjan, A.C. to AAG-5

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-07-2019

Heard learned counsel for the parties.



2. A writ petition was filed by an association of 350 distributors of kerosene contending that the business of the petitioners has been affected, but at the same time, it is a reduction in the allotment to the State quota by the Central Government of distribution of kerosene which is the ultimate damage being caused to the public at large for which the present writ petition has been filed contending that apart from the dealers being put to loss it is the consumers of the State who have also been deprived of the benefits on account of such a policy.

3. The writ petition was filed keeping in view the facts and figures of the year 2017-18 and the learned Single Judge has dismissed the writ petition as infructuous on the ground that since the period for which this complaint had been made is over, it would not be appropriate to proceed with the matter in this regard.

4. This appeal has been preferred contending that as a matter of fact, this reduction in quota is a continuing cause of action and therefore the assumption by the learned Single Judge that the reduction in quota had affected only one particular area is not correct in order to treat the matter to have become infructuous. It is further submitted that the ultimate



impact being created on the public at large including the business of the petitioner association, the writ petition ought to have been entertained and appropriate directions ought to have been issued.

5. Opposing the petition learned counsel for the Union of India contends that this being a matter of privileged licence dealership, the petitioners have no right so as to assert for the issuance of a writ for the cause of action shown. It is further submitted that the petitioners cannot question a policy which has been framed keeping in view the larger interest of the entire population of the country without virtually affecting the Public Distribution System. It is therefore urged that the writ petition ought not to be entertained even otherwise on merits apart from the fact that it was affecting only the previous year of 2017-18.

6. We have considered the submissions raised and we are of the opinion that so far as the dealers' association is concerned, there is no such vested or accrued right in favour of the petitioners so as to claim the continuance of supply of kerosene as was being done prior to the adoption of the new policy. The very terms and conditions of the licensing orders are such that do not allow any such right being claimed by a



particular dealer unless the minimum is prescribed. In the instant case, we find that reduction in supply would result in somewhat a lower scale of transactions that may reduce the ultimate commission which is earned by the petitioners but the same does not extend to an argument which can be entertained so as to treat it as a violation of the right to livelihood guaranteed under Article 21 of the Constitution of India. The right to freedom of trade and expression with the State is regulated and unless it can be shown that the Public Distribution System policy as adopted by bringing about reduction in quota is detrimental to the public at large or is otherwise unconstitutional, no such right can be claimed by the dealers who are supposed to facilitate such transaction. In the absence of any such rights affecting the petitioners, we are not inclined to entertain this petition for the relief as prayed for.

7. Coming to the second argument that this is a matter where the ultimate impact is on the public at large, we have not been able to find any material that may compel us to conclude that reduction in the quota has resulted in any ultimate loss to the public at large and consequently this cannot be treated to be a ground for allowing the petitioners to question the said policy on the grounds referred to above.



8. In the event the petitioners are aggrieved, this being a matter of policy in trading of an essential commodity under the Public Distribution System, it is always open to public representatives or even those who are affected by any such policy to approach the appropriate Government for redressal of their grievances. We, therefore, consign this petition to records without prejudice to the rights of any affected persons to approach the appropriate Government for redressal of such grievances.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	24.07.2019
Transmission Date	

