

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1831 of 2016

IN

Civil Writ Jurisdiction Case No. 3414 of 2016

- =====
1. The State of Bihar through the Principal Secretary, Food & Civil Supply and Commerce Department, Government of Bihar, Patna.
 2. The Principal Secretary, Food & Civil Supply and Commerce Department, Government of Bihar, Patna.
 3. The Collector-cum-District Magistrate, Gopalganj.
 4. The Sub Divisional Officer, Gopalganj.

.... Appellant/s

Versus

1. M/s Satyadeo Tiwari Wholesale Dealer Keerosene Oil, Katya P.S.- Katya, Distt.- Gopalganj.
2. Ambika Saran Tripathi S/o Ashok Tiwari Resident of Village- Beloura, P.S.- Katya, District- Gopalganj.
3. Ashish Kumar Tiwari S/o Late Akhilesh Tiwari Resident of Village- Beloura, P.S.- Katya, District- Gopalganj.
4. The Indian Oil Corporation Ltd., through Sr. Divisional Manager, Block A, Mauryalok Complex, 3rd Floor, Dakbunglow Road, Patna-1.
5. The Sr. Divisional Manager (SDRSM), Indian Oil Corporation, Marketing Division, Block A, Mauryalok Complex, 3rd Floor, Dakbunglow Road, Patna-1.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Anil Kr. JKha, Sr. Advocate
Mr. S.K.Mishra, Advocate
FOR private Respondent : Mr. Y.V.Giri, Sr. Advocate
For the State : Mr. Suryakant Kumar, AC to GA-8

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 27-07-2017

We have heard learned counsel for the parties at length.

Keeping in view a peculiar situation which we observed not only in this appeal but also in various appeals without



going into the merits of the matter, we propose to deal with the issue.

We find that writ petitions are decided on common issues either by common order or by different orders and the State of Bihar files appeals only against particular order passed in the writ petition whereas in other cases, identical in nature on same issue, appeals are not filed.

In this case by the common order impugned passed by the Writ Court on 26.5.2016 three writ petitions were decided, namely, CWJC No. 3414 of 2016 (M/s. Satyadeo Tiwari Wholesale Dealer Kerosene Oil & Ors. Vs. The State of Bihar), CWJC No. 8020 of 2016 (M/s. Nagdeo Traders & Ors. Vs. State of Bihar & Ors.) and CWJC No. 8172 of 2016 (M/s. Hazarimal Khemnachand Vs. The State of Bihar & Ors.). The matter pertains to allotment of dealership of Kerosene oil.

We find from the material available on the record that in the case of M/s. Nagdeo Traders and M/s Hazarimal Khemnachand (supra) no appeal has been filed by the State and only with regard to the order passed in CWJC No. 3414 of 2016 (M/s. Satyadeo Tiwari Wholesale Dealer), this appeal has been filed on 16.9.2016.

Serious objections were raised by counsel



representing the respondents to say that a pick and choose method is followed, in certain cases appeals are filed and in certain cases identical in nature appeals are not filed. When this issue was raised, we have earlier passed over the matter and today we find that this is the correct position. If the State Government has not filed appeal in the writ petitions of M/s. Nagdeo Traders and M/s Hazarimal Khemnachand (supra) in which cases also the same orders have been passed, the action of the State Government in selectively filing appeals only with regard to some of the petitioners is an act of discrimination and on this count alone we dismiss this appeal.

We are also informed that it is a litigation policy of the State Government that if an order is implemented in a particular case and if a common order is passed in the writ applications, it should be uniformly implemented in all other cases even without the party concerned approaching the Court. If that be the litigation policy, it seems to be not implemented in this case.

In this case all the three writ petitions were disposed of by a common order, a pick and choose method has been followed and only in a selected case appeal has been filed.

Finding no indulgence called for in view of this we dismiss the appeal.



We direct the Registrar General of this Court to forward a copy of this order to the Chief Secretary of the State, who is directed to note the observations made hereinabove and to ensure that the litigation policy is implemented uniformly in all cases and this method of selectively filing appeals only in certain cases and not taking action for implementing the orders passed in other cases, be done away with and a uniform policy be followed.

The Chief Secretary is expected to inform all concerned to strongly follow the principle.

(Rajendra Menon, CJ)

S.Pandey/-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.08.2017
Transmission Date	

