

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8108 of 2017

Abdul Hamid, Son of Late Md. Islam, resident of Village- Basahia, Police Station- Kanhauli, District-Sitamarhi

... .. Petitioner/s

Versus

1. State Of Bihar through the Collector, Sitamarhi
2. Collector, Sitamarhi
3. Sub-Divisional Officer, Sitamarhi Sadar
4. Block Supply Officer, Sonbarsa, Sitamarhi

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Yogendra Mishra, Advocate
For the Respondent/s : Mr. Bijoy Kumar Sinha, State

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 02-12-2022

Heard Mr. Yogendra Mishra, learned Advocate
for the petitioner and Mr. Bijoy Kumar Sinha for the
State.

The licence of the petitioner was cancelled
along with other persons, whose licences were also
cancelled. In case of the others, a Bench of this Court in
batch of cases, the lead case being CWJC No. 8135 of
2010, directed the licensing authority to pass a fresh
order, giving further consideration to the grounds raised
on their behalf. As a result of the aforesaid remand, all
the licences were restored. Since the petitioner has not



come before this Court, his licence, but, remained cancelled, against which order he had appealed before the District Magistrate/appellate authority, but no order was passed by the appellate authority also.

It was only thereafter that the petitioner approached this Court claiming that if all other licences, which were cancelled in the same transaction as that of the petitioner, were restored, then only for the reason of the petitioner not having approached this Court along with those persons or having brought this issue before the licensing authority on time, he should not have been left out.

In support of the aforesaid contention, Mr. Mishra, has submitted that if benefit on some ground is made available to similarly placed persons, that should also be extended to the others in the same category and that laches is not to be seriously seen in writ petitions where rights of a particular person is in peril.

Both the arguments of the learned counsel



for the petitioner is not worthy of acceptance, for the reasons that 18 years is too long a time for the petitioner to have brought this to the notice of either the authorities or the Court. The petitioner is a licensee of an earlier Control Order, and even if this petition is allowed, his licence would not be extended under the new Control Order, 2016.

It is difficult for us to entertain the petition at this stage, regardless of the fact that others similarly situated were given the benefit of restoration of their licence. The benefit would have been extended to the petitioner as well if he had approached the licensing authority within a reasonable period of time or would have pressed the appeal preferred by him.

At this stage, Mr. Mishra, learned Advocate has pointed out that taking reference of the order passed by this Court remanding the matter to the licensing authority, the petitioner also had made a representation before the licensing authority on 10.02.2012 but that



went unheeded.

The petitioner ought to have pursued such application or should have approached this Court at an earlier date for the licensing authority not having responded to his application. As noted above, even the appeal preferred by the petitioner was not pursued and left mid-way, and this petition has been filed in the year 2017.

For the reasons afore-noted, mainly the delay in approaching the Court, and otherwise also, as benefit would not have inured in favour of the petitioner as the licence has not been extended or continued under the New Control Order, 2016, which only gives a six months window for conversion and the possibility of any third party interest having been created, which the learned counsel for the petitioner submits, has not been done, we do not find it appropriate for us to accede to the prayer made by the petitioner.

However, it would be open to the petitioner



to approach the departmental Secretary in case it is desired, intimating all the developments who may take a policy decision of advertising the position and in that case, the petitioner would be in a position to apply and if found suitable in all respects, selected.

Be that as it may, since the challenge to the order of cancellation of licence could not be adjudicated by any higher authority or by this Court, it is presumed that such cancellation would not act as any impediment in the petitioner applying afresh, should such vacant position be advertised and such cancellation shall not be read or considered against him.

With the afore-noted observation, the application stands dismissed.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

SONALI/HR/-

AFR/NAFR	NAFR
CAV DATE	NA
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