
(2008) 03 JH CK 0001

Jharkhand High Court

Case No: None

Nathu Kumar Jain

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: March 27, 2008

Citation: (2008) 2 JCR 602

Hon'ble Judges: Narendra Nath Tiwari, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

Narendra Nath Tiwari, J.

In this writ petition, the petitioner has prayed for a direction on the respondents to renew and return the Wholesale Kerosene Oil Licence No. 1/Bagh/ 89 (SKO). Petitioner has further prayed for a direction on the respondents to delete the name of any third person, if inserted in the licence, which is not permissible in view of the provisions of Clause-9 of the Bihar Trade Articles (Licences Unification) Order, 1984 (hereinafter to be referred as the "Unification Order).

2. According to the petitioner, the licence for Whole Kerosene Oil was granted to M/s. Chhitar Mal Nathu Mal & Sons, which was a proprietorship firm. The petitioner has applied for renewal of the said licence before the Licensing Authority on 24th April, 2007, but the Licensing Authority has not returned the licence to the petitioner after renewal.

3. Learned Counsel appearing on behalf of the respondent No. 4 as also learned JC to GP III appearing on behalf of the State-respondents contested the writ petition. Petitioner's claim has been contested merely on the ground that the firm in the name of which the licence was earlier granted was converted into a partnership firm and 75% of the share in the partnership was given to the respondent No. 4 and 25% of the share remained with the petitioner. The said partnership deed was filed before the Licensing Authority and on that basis, the fact was mentioned in the

licence. It has been submitted that the petitioner, thus, cannot now pray for deleting the said contents of the licence, which has been inserted on the basis of the said partnership firm.

4. I have heard learned Counsel for the parties and considered the facts and materials on record and have also considered the provisions of Clause-9 of the said Unification Order, Clause-9 of the Unification Order runs as follows:

9. Addition and alternation to licence.-The Licensing Authority after giving due opportunity may take necessary additions, deletions and alterations in the entries made in the licence relating to godown, place of business, names of partners, trade articles etc., on the application of the licensee.

5. It is evident from the said provision that the Licensing Authority can make necessary addition, deletion or alteration in the entry made in the licence including the names of the partners etc. only on the application of the licensee after giving due opportunity to the concerned parties. No material has been brought before this Court showing that any such application was made by the licensee. In that view, the plea taken by the learned Counsel for the respondents does not appear to be of any substance.

6. However, since the matter of renewal of licence is pending before the Licensing Authority, the same is remitted to the Deputy Commissioner, Dhanbad, respondent No. 2, who shall consider the petitioner's claim under the provisions of law, hear the interested parties and shall pass appropriate order, in accordance with law, within a period of four weeks from the date of receipt/production of a copy of this order. The said respondent on receipt of the copy of this order shall fix a date and inform the same to the interested parties/persons and on the date fixed shall hear them and pass a reasoned order.

7. With the said observations and directions, this writ petition is disposed of.