

(2012) 02 JH CK 0025

Jharkhand High Court

Case No: L.P.A. No. 06 of 2012

Karambir Yadav

APPELLANT

Vs

Awadhesh Ravidas and Others

RESPONDENT

Date of Decision: Feb. 7, 2012

Hon'ble Judges: Prakash Tatia, J; Aparesh Kumar Singh, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. Heard learned counsel for the appellant and the learned counsel for the State.
2. The appellant was not a party before the learned Single Judge in W.P.(C) No. 1238 of 2006 which has been allowed and the order of cancellation of licence of the private respondent dated 04.1.2006 has been set aside.
3. The appellant's contention is that the appellant was not impleaded as party in the writ petition in spite of the fact that the cancellation of the licence order was passed at the instance of the present appellant's representation and that fact was pleaded by the writ petitioner himself. It is submitted that thereafter the appellant had been granted licence by the respondent-State under the provision of Bihar/Jharkhand Trade Articles (Licence Unification Control) Order, 1984.
4. Learned counsel for the appellant submitted that the respondent's licence was valid up-to 31.3.2006 but finding serious irregularities committed by the private respondent, his license was cancelled vide order dated 04.1.2006. it is further submitted that the appellant can demonstrate that the order dated 04.1.2006 is valid and legal order.
5. We have considered the submissions of learned counsel for the appellant and perused the facts of the case. Learned Single Judge has carefully considered the issue raised by the writ petitioner to challenge the order dated 04.1.2006 (annexure-6) and held that the licensing authority has passed a cryptic order

observing that the license of the petitioner is being cancelled with immediate effect in the light of the order of the Deputy Commissioner, Chatra which according to the learned Single Judge goes to demonstrate that the Sub-divisional Officer-cum-licensing authority has cancelled the petitioner's license at the dictation/direction of the Deputy Commissioner, Chatra and the order does not show any application of mind by the authority itself and therefore, the order dated 04.1.2006 is in clear violation of the Statutory provision.

6. The contention of the learned counsel for the appellant that the appellant has not committed any mistake and he was granted license in accordance with law, is of no consequence because a valid order of grant of license to the appellant cannot make illegal order cancelling the license of the respondent valid, nor the appellant could have been permitted to support the order of cancellation dated 04.1.2006 which was passed by the competent authority by exercising its Statutory power. The appellant can not be given liberty to assist the Government as it was the duty of the Government itself to defend the order dated 04.1.2006.

7. In view of the above reasons, we do not find any merit in the prayer of the appellant that he may be given liberty to challenge the order and so far as the issue relating to continuation of license of the writ petitioner after 31.3.2006 is concerned, it depends upon the discretion of the authority concerned who is bound to exercise its discretion in accordance with law.

8. Therefore, we are not inclined to entertain this L.P.A. which is accordingly dismissed.