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(1998) 10 SC CK 0056

Supreme Court of India

Case No: Civil Appeal No. 5464 of 1998 Arising out of SLP (C) No. 15180 of 1997

Dilip K. Singh		APPELLANT
	Vs	
State of Bihar and Others		RESPONDENT

Date of Decision: Oct. 30, 1998

Citation: (2001) 9 SCC 373

Hon'ble Judges: S. P. Kurdukar, J; G. T. Nanavati, J

Bench: Division Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

1. Leave granted.

2. Heard learned counsel for the parties.

3. The appellant is engaged in the business of manufacturing ayurvedic medicines. He and his brother Vinay Kumar Singh are the proprietors of M/s Vishwanath Indian Herb Products. They obtained a licence under the Drugs and Cosmetics Act, 1940 for manufacturing ayurvedic medicines in Form No. 25D. On 24-3-1995, they applied to the Commissioner of Excise for a licence in Form L-1 under the Medicinal and Toilet Preparation (Excise Duties) Act, 1955 and the Rules made thereunder for manufacturing medicinal preparations containing alcohol. This application was rejected by the Commissioner on the ground that the manufacturers of ayurvedic medicines in the districts of Saran and Vaishali have not been manufacturing medicinal preparations containing alcohol according to their installed capacity. It was further observed by the Commissioner in his order that non-utilisation by the licence-holders of their installed capacity indicated that there was no requirement for such medicinal preparations. This order was challenged by the appellant by filing an appeal to the State Government. It was dismissed.

4. The appellant then filed a writ petition in the Patna High Court challenging the orders passed by the State Government and the Commissioner of Excise. The High Court held that merely because a manufacturer of medicines makes a defects-free application for grant of licence under the Excise Act and the Rules, his application need not be granted as the licensing authority has also to take into consideration the object of the statute, nature of the products etc. Taking this view, the High Court dismissed the writ petition. The observation made by it that when the Commissioner for Excise decides to grant licences to others, the case of the appellant should also be considered is really of no avail.

5. It was contended by the learned counsel for the appellant that the Commissioner of Excise rejected the appellant''s application on a totally extraneous consideration. He submitted that the application of the appellant should have been decided on its own merits and could not have been rejected on the ground that other manufacturers in the districts of Saran and Vaishali were not manufacturing ayurvedic preparations containing alcohol to their full-installed capacity.

6. In our opinion, the contention raised on behalf of the appellant deserves to be accepted. The application made by the appellant was required to be decided on its own merits and in accordance with law. What the authority was required to consider was whether the requirements of law were complied with or not by the appellant. Since the application of the appellant was rejected by the Commissioner on an extraneous consideration, the order passed by him deserved to be set aside. The High Court was wrong in dismissing the writ petition filed by the appellant.

7. We, therefore, allow this appeal, set aside the judgment and order passed by the High Court and also the orders passed by the State Government and the Commissioner of Excise and direct him to consider the application of the appellant afresh and decide the same on its own merits and in accordance with law.