

Madho Lal Prasad Vs The State of Bihar and Others

Court: Patna High Court

Date of Decision: March 27, 2009

Citation: (2009) 2 PLJR 852

Hon'ble Judges: J.B. Koshy, C.J; Ravi Ranjan, J

Bench: Division Bench

Advocate: N.K. Agrawal, D.N. Tiwari and Saket Tiwary, for the Appellant; B.N. Thakur, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

1. Heard learned counsel for the appellant and learned counsel appearing for the State. The learned Single Judge has dismissed the writ petition

filed by the petitioner, who is appellant herein, on two grounds, firstly, that the original order of the licensing authority dated 20/21.7.2000,

whereby the license of the petitioner was cancelled, was not annexed with the writ petition and, secondly, that the petitioner has not exhausted the

alternative remedy available against the appellate order dated 20.11.2004 by way of revision.

2. It is also submitted that on the date when the case came up for hearing, without granting an opportunity to the petitioner to bring on record the

original order of the licensing authority, the impugned order dated 28.1.2009 has been pronounced by the learned Single Judge. Learned counsel

also submitted that if the original order of the licensing authority was required, the petitioner ought to have been given an opportunity to bring on

record the original order of the licensing authority.

3. In our opinion, on the technical ground of not producing the aforesaid original order of the licensing authority, without giving an opportunity to

the petitioner to produce the same, the writ petition should not have been dismissed. The appellant has annexed the original order dated

20/21.7.2000 of the licensing authority as Annexure-2 to the Memo of Appeal.

4. With regard to the second ground, it is submitted that before passing the Public Distribution Order, 2001 by the Central Government, the

previous Orders holding the field were rescinded and, as per the Control Order, 2001, there is a provision of appeal and there is no provision of

revision. The above order was passed during the pendency of the appeal and the appellate order was passed on 20.11.2004. Learned counsel for

the respondents also did not dispute these facts.

5. We are also of the view that after keeping the writ petition pending for more than two years, dismissal of the writ petition on the grounds so

taken in the impugned order is not justified. We, accordingly, set aside the impugned order and remit back the matter to be heard and disposed of

on merit by the learned Single Judge.

6. Post before the appropriate bench, at present dealing with the subject. This appeal stands allowed.