

Krishna Kumar Vs. State of Bihar and ors.

Krishna Kumar Vs. State of Bihar and ors.

SooperKanoon Citation : sooperkanoon.com/120889

Court : Patna

Decided On : Feb-20-2001

Judge : Aftab Alam, J.

Acts : [Essential Commodities Act, 1955](#) - Sections 7; Bihar Trade Articles (Licences Unification) Order, 1984

Appeal No. : C.W.J.C. No. 2369 of 2001

Appellant : Krishna Kumar

Respondent : State of Bihar and ors.

Advocate for Pet/Ap. : Mr. Griyaghey

Prior history : Aftab Alam, J. 1. The petitioner held a retail licence under the Bihar Trade Articles (Licences Unification Order), 1984 and a dealership under the Public Distribution System. He was made an accused in a criminal case in which allegations were that he committed irregularities in distribution of the foodgrains allotted to him. The trial ended in his acquittal. Nevertheless, the licensing authority cancelled his licence issued under the unification order. In appeal, the order passed by the licen

Judgement :

Aftab Alam, J.

1. The petitioner held a retail licence under the Bihar Trade Articles (Licences Unification Order), 1984 and a dealership under the Public Distribution System. He was made an accused in a criminal case in which allegations were that he committed irregularities in distribution of the foodgrains allotted to him. The trial ended in his acquittal. Nevertheless, the licensing authority cancelled his licence issued under the unification order. In appeal, the order passed by the licensing authority was affirmed.

2. Mr. Griyaghey, learned Counsel for the petitioner-submitted that under Clause 11(1) of the Unification order, a licence could be cancelled only in case of conviction in a criminal case and therefore, the order passed by the licensing authority and the appellate authority, cancelling his licence though he was acquitted in the criminal trial were illegal and unsustainable in law.

3. The submission made by Mr. Griyaghey is well founded so far as retail licence of the petitioner is concerned. The licence could not be cancelled in view of the fact that the trial of the petitioner had ended in his acquittal. The impugned orders, therefore, insofar as they relate to cancelling the retail licence granted to the petitioner under the unification order are set aside.

4. This is, however, not the end of, the matter. The grant of a retail licence under the unification order is one thing and the grant of dealership under the Public Distribution System is something quite different. It is true that for a dealership under the Public Distribution System, the dealer must have a retail licence but the converse evidently is not true and it cannot be said that every one having a retail licence must also be given a dealership under the Public Distribution System. The dealership under the Public Distribution System is simply an agency and would be governed by the law of agency in which the Government is the principal and the dealer is the agent. If for any reason, the principal no longer wishes to continue some one as dealer, the dealership cannot be claimed as a matter of right.

5. In the result, therefore, this order will restore the petitioner's licence under the unification order on the basis of which it will be open to the petitioner to carry on his private trade or business within the terms and conditions of the licence and the provisions of the unification order. This order, however, will not bound the

respondent-authorities to restore the dealership of the petitioner under the Public Distribution System.

6. This writ petition is partly allowed to the extent indicated above.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com