

Most Ramshila Devi Vs. State of Bihar and ors.

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Court : Patna

Decided On : Nov-14-2003

Judge : Chandramuli Kr. Prasad, J.

Acts : Bihar Trade Articles (Licences Unification) Order, 1984

Appeal No. : C.W.J.C. No. 3558 of 2003

Appellant : Most Ramshila Devi

Respondent : State of Bihar and ors.

Advocate for Def. : Suresh Kumar, JC to SC V

Advocate for Pet/Ap. : Yogesh Chandra Verma and Naresh Das, Advs.

Disposition : Application dismissed

Judgement :

Chandramauli Kr. Prasad, J.

1. This application has been filed for quashing the order dated 12-10-2002 passed by the Sub-Divisional Officer, Chakia, whereby the petitioner's appointment as dealer under the Public Distribution System, has been cancelled.

2. Short facts giving rise to the present application are that the petitioner holds a licence under the provision of Bihar Trade Articles (Licences Unification) Order,

1984, hereinafter referred to as the 'Unification Order'. He was also appointed as the dealer under the Public Distribution System, hereinafter referred to as 'PDS'. On the allegation of misappropriation of grains meant for the people, covered under the Annapurna Yojna, his appointment (Anugyapti) under the PDS has been cancelled.

3. Mr. Yogesh Chandra Verma, appearing on behalf of the petitioner submits that the impugned order in sum and substance cancels the petitioner's licence under the Unification Order and the same having been done at the instance of the Collector, the order is vitiated on that ground alone. He further submits that the licence granted under the Unification Order cannot be cancelled without giving show cause notice to the petitioner. It is averred that no such show cause notice was given to the petitioner.

4. Junior Counsel to Standing Counsel No. V, appearing on behalf of the respondents, submits that the petitioner is creating ghost for himself and killing it. He submits that the impugned order cancels appointment of the petitioner as dealer under the PDS and does not cancel his licence under the unification Order. He points out that so far as the issue of dealership under the PDS is concerned, same shall be governed by law of agency in which the State Government is the principal and the dealer is the agent. He emphasizes that 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. In support of his submission, reliance has been placed on a decision of this Court in the case of Sri Krishna Kumar v. The State of Bihar and Ors., reported in 2001 (2) PLJR 535 and my attention has been drawn to para 4 of the judgment which reads as follows:

'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. Having appreciated the rival submissions, I do not find any substance in the submission of Shri Verma. From perusal of the impugned order, it is evident that what has been cancelled is the petitioner's appointment as the dealer under the PDS. Once it is held so, the argument that the licence under the Unification Order cannot be cancelled at the dictates of the Collector or without giving the show cause notice, falls to the ground.

6. Mr. Verma then submits that the petitioner's appointment as the dealer under the PDS ought not to have been cancelled on the ground that the petitioner had misappropriated the grains meant to be disbursed amongst the public coming under the Annapurna Yojna. He submits that finding recorded by the authority that the petitioner has misappropriated the grains, without giving any opportunity to him and on the basis of an inquiry held behind his back, is bad in law.

7. As observed by this Court in the case of Sri Krishna Kumar (supra), the dealership cannot be claimed as a matter of right and shall be governed by the law of agency. Here in the present case, allegation against the petitioner is of misappropriation of the grains meant for the people covered under the Annapurna Yojna. Said order does not prohibit the petitioner to carry on his private business following the terms and conditions of the licence and the provisions of the Unification Order. The principal being satisfied that its agent is not fit to be continued as dealer under Public Distribution System for reasons germane, same is not fit to be interfered by this Court in exercise of writ jurisdiction.

8. I do not find any merit in this application and it is dismissed accordingly.

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