

Pawan Kumar Jha Alias Pawan Jha Vs. State of Bihar and ors.

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Court : Patna

Decided On : Jan-10-1997

Judge : Choudhary S.N. Mishra, J.

Appeal No. : C.W.J.C. No. 10941 of 1995

Appellant : Pawan Kumar Jha Alias Pawan Jha

Respondent : State of Bihar and ors.

Disposition : Application Allowed

Judgement :

Choudhary S.N. Mishra, J.

1. After having heard the learned Counsel for the parties this writ application is being disposed of at the admission stage itself. In this writ application the petitioner has prayed for quashing of the orders dated 3.9.93, 27.12.93 and 30.10.94, copy of which have been made Annexures 1, 2 and 3 respectively in this writ application, by which the licence granted to the petitioner under the provisions of Bihar Trade Articles (Licences Unification) Order, 1984, is sought to be cancelled by the respondent authority. The petitioner has challenged the orders only on the ground that neither any show cause notice was issued to the petitioner nor any opportunity was given to him of being heard before passing the impugned order. Specific statements have been made in paragraphs 19 and 20 of this writ

application which are as follows-

19 That it is stated and submitted that before passing the impugned order cancelling the licence neither show cause/explanation was asked from the petitioner by the respondent concerned nor an opportunity of being heard was afforded to the petitioner which is against the principles of Natural Justice.

20. That it is submitted that the mandatory provision as contained in Section 11 of the Bihar Trade Articles (Licences Unification) Order, 1984 has not been complied with as the licensee has not been given a reasonable opportunity stating his case against the proposed cancellation of licence.

2. A counter affidavit has been filed on behalf of the State respondents, wherein the statement made in the aforesaid paragraphs, as quoted above, has not been denied and/or disputed even during the course of hearing of this writ application. It is submitted that the licence has been cancelled on the basis of the enquiry held by the respondent officers. In that enquiry also the petitioner has not been noticed.

3. Accordingly, without going in to the merits of this case I quash the orders dated 3.9.93, 27.12.93 and 30.10.94, as contained in Annexures 1, 2 and 3 respectively and remit the case back to the respondent Sub Divisional Officer, who will issue notice to the petitioner and thereafter will pass appropriate order in accordance with law, without being prejudiced by the order of this Court. This writ application is allowed to the extent indicated above.

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