

Jitendra Kumar Vs. State of Jharkhand and ors

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Court : Jharkhand

Decided On : Sep-17-2012

Appellant : Jitendra Kumar

Respondent : State of Jharkhand and ors

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W. P. (C) No. 2074 of 2012
Jitendra Kumar .. Petitioner Versus The State of Jharkhand & Others ..
Respondents ----- CORAM: HONBLE MR. JUSTICE NARENDRA NATH TIWARI
----- For the Petitioner - Mr. Manoj Tandon, Advocate For the State - Mr. J.C to
G.P.II ----- 4/17.09.2012 In this writ petition, the petitioner has prayed for quashing
the order dated 20.3.2012 (Annexure-4) passed by the Sub-Divisional Officer,
Sadar, Ranchi, whereby the petitioner's P.D.S license has been cancelled. The
sole grievance of the petitioner is that the impugned order has been passed
without giving any notice informing the reasons and without affording any
opportunity to represent against the same. It has been submitted that the
impugned order has been passed in violation of Rule 11 of the Bihar Trade Articles
(License and Unification) Order, 1984 [hereinafter referred to as the said Order] as
well as the principle of natural justice and is ab initio void. The impugned order is
liable to be quashed by this Court. Learned counsel for the petitioner further
submitted that the license was granted to the petitioner on compassionate ground
under the policy decision of the Government in the year 2010. His license cannot
be cancelled without giving any notice informing the reasons or without affording
any opportunity of representation against the same. Learned J.C to G.P. II

appearing on behalf of the respondents contested the writ petition. It has been stated, inter alia, that there is no arbitrariness or illegality in the impugned order. It was found that licenses were granted contrary to the policy decision and the provisions of law. The license was reviewed and was found fit for cancellation. The petitioner's license was found to be illegally granted and is accordingly cancelled by the impugned order. Heard learned counsel for the parties. On perusal of the impugned order, I find that the petitioner's license has been cancelled by a summary order. Before cancelling the petitioner's license, no notice was given to the petitioner informing the reasons and affording him opportunity to represent against the same. Clause 11 of the said Order, 1984 provides for giving reasonable opportunity of representation to the person before cancelling his license. Cancellation of the petitioner's -2- license visits him with civil consequence. In that view also, cancellation of the petitioner's license without giving him notice and opportunity of representation / hearing is violative of the principle of natural justice. Considering the above, this writ petition is allowed. The impugned order dated 20.3.2012 passed by the Sub-Divisional Officer, Sadar, Ranchi (Annexure-4) is quashed. However, if there is any legal justification for proceeding against the petitioner's license, the respondents are at liberty to proceed in accordance with law. (NARENDRA NATH TIWARI, J) Shamim/

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