



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 1192/2016
CNR: RJHC020601542016 | URN: CW / 2123U / 2016

Ramcharan Meena S/o Late Shri Mishrilal aged 40 years, r/o village Panchayat Naroli Chor, Tehsil Bamanwas, District Sawaimadhopur Rajasthan

-----Petitioner

Versus

1. State of Rajasthan through Principal Secretary, Food, Civil Supplies and Consumer Matters Department, Govt. of Rajasthan, Govt. Secretariat, Jaipur.
2. District Supply Officer, Sawaimadhopur Rajasthan
3. Shri Chandiram Jaswani, District Supply Officer Sawaimadhopur
4. Shri Gyanchand, Enforcement Officer, District Supply Officer Office, Sawaimadhopur

-----Respondent

For Petitioner(s) : Mr. Shashi Bhushan Gupta, Adv.
For Respondent(s) : Mr. Devesh Bajoria, Adv. &
Ms. Ishika Jeliya, Adv. for
Mr. Lokendra Rao, Dy. GC

HON'BLE MR. JUSTICE ANAND SHARMA
Judgment

05/10/2026

1. By way of filing this writ petition, the petitioner has assailed legality, validity and propriety of notice/order dated 29.12.2015, whereby District Supply Officer, Sawaimadhopur has directed the petitioner to deposit Rs.1,88,773.20/- which were allegedly recoverable against father of the petitioner.
2. Learned counsel for the petitioner submits that father of the petitioner passed away on 26.12.2003. It is not disputed that earlier, father of the petitioner was holding license for distribution of food products and other items as per Rajasthan Foodgrains and Other Essential Articles (Regulation of Distribution) Order, 1976 (for short 'the Order of 1976'), yet the said license



was in his individual name and automatically stood terminated on the date of his death. He submits that at no point of time, any notice demonstrating any irregularity or financial loss was ever served by the respondents to the deceased father of the petitioner.

3. Learned counsel submits that after expiry of more than 12 years from the date of death of his father, notice dated 15.10.2015 was issued by the District Supply Officer, Sawaimadhopur against a dead person (addressing deceased father of the petitioner). Since, the said notice was served at the address of the petitioner, therefore, he sent reply in the form of legal notice intimating the respondents that father of the petitioner had expired 12 years back on 26.12.2003, therefore, no such recovery as alleged in notice dated 15.10.2015 can be effected.

4. Learned counsel submits that soon thereafter, the respondent-District Supply Officer, Sawaimadhopur issued another notice dated 29.12.2015 to the petitioner indicating that the amount referred in the notice was pending and recoverable against father of the petitioner.

5. Learned counsel submits that late father of the petitioner was holding an independent license with a different license number and registration, whereas the petitioner was issued a fresh license No.2/2004 dated 05.02.2004 independently and after assessing the eligibility and entitlement of the petitioner.

6. Learned counsel submits that it is fundamental principle of law that no recovery can be effected against a dead person and even otherwise, if the dues shown in the notices are taken at its



face value, and even as per the provisions of the Limitation Act, 1963, the limitation for recovery of amount is only 3 years, whereas the impugned notice has been served after a period of 12 years from the date of death of earlier licensee. Learned counsel for the petitioner submits that under these circumstances, impugned notice dated 29.12.2015 is absolutely arbitrary, illegal and without authority of law, therefore, he prayed that the same may be quashed.

7. Learned counsel for the respondents opposed the writ petitioner and submitted that order impugned is appealable under clause 22 of the Order of 1976, yet without challenging the same before the Appellate Authority, the petitioner has directly approached this Court by way of filing this writ petition, which is not maintainable.

8. Heard learned counsel for the parties and perused the record.

9. In view of the facts stated by the petitioner and not controverted by the respondents, it is clear that father of the petitioner was holding a distinct and independent license during his life time. It is also not disputed that father of the petitioner died on 26.12.2003. It is settled proposition of law that license is not an inheritable instrument and therefore, stood terminated on the date of death of licensee.

10. It is also undeniable fact that during life time of father of the petitioner, he was never served with any notice indicating any irregularity of financial loss to the Government. Under these circumstances, after 12 years from his death, issuing any notice for recovery cannot be countenanced under any law.



11. Even otherwise, it is also an undisputed fact that the petitioner was issued a separate and independent license No.02/2004 dated 05.02.2004 after assessing his eligibility for getting the license under the aforesaid Order of 1976. Therefore, for the purpose of any recovery, in the facts and circumstances of the case, petitioner shall be treated as an independent identity and recovery, if any, against any licensee holding a different license, cannot be enforced against the petitioner.

12. As regards objection with regard to availability of alternative remedy of appeal as raised by learned counsel for the respondents is concerned, this Court finds that Rule of alternative remedy is not an inflexible Rule and is the Rule of convenience. Even otherwise, in the cases like present one, where the respondents have acted without authority of law and issued notice for making of recovery against a dead person, which is admittedly related with the working and functioning pursuant to an independent license earlier held by the deceased, petitioner has rightly approached this Court by way of invoking extraordinary jurisdiction under Article 226 of the Constitution of India.

13. For the reasons mentioned hereinabove, this Court finds that notice dated 29.12.2015 issued by District Supply Officer, Sawaimadhopur is absolutely arbitrary, illegal and without authority of law and the same is hereby quashed and set aside.

14. The writ petition stands allowed in view of above observations.

15. Pending application(s), if any, stand(s) disposed of.

(ANAND SHARMA),J

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