

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10498 of 2013

Sadanand Biswas, son of Late Keshar Lal Biswas, resident of Village - Ghapri, Police Station - Plasi, District – Araria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, Araria.
3. The Sub-Divisional Officer, Araria.

.... Respondent/s

with

Civil Writ Jurisdiction Case No.14113 of 2013

Bibi Raushan Ara @ Raushan Ara, Wife of Md. Sohil @ Sahil, resident of Village - Gaiyari, P.S. - Araria, District – Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Araria.
2. The Collector, Araria.
3. The Sub-Divisional Officer, Araria..

.... Respondent/s

with

Civil Writ Jurisdiction Case No.18676 of 2013

Bibi Tahmina Khatoon, wife of Md. Mukhtar Alam, resident of Village Macchaila Kailabari, Gram Panchayat, Chokba, P.S. Mahalgaon, District Araria.

.... Petitioner/s

Versus

1. The State of Bihar, through the Secretary, Food and Consumer Protection Department, Old Secretariat, Patna, Bihar.
2. The Collector -cum- District Magistrate, Araria, District- Araria.
3. The Sub-Divisional Officer, Araria, District Araria.

.... Respondent/s

with

Civil Writ Jurisdiction Case No.19498 of 2013

Pankaj Kumar Sah, son of Janak Lal Sah, resident of Village- Barah Kumba, P.S.- Palasi, District- Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Araria.
2. The Collector, Araria.
3. The Sub-Divisional Officer, Araria.

.... Respondent/s

with

Civil Writ Jurisdiction Case No.19648 of 2013

Bibi Arbun Nissa, wife of Md. Nasim, resident of Village- Dolatpur, Gram



Panchayat, Duba, P.S.- Jokihat, District- Araria.

.... Petitioner/s

Versus

1. The State of Bihar, through the Secretary, Food and Consumer Protection, Department, Old Secretariat, Patna, Bihar.
2. The Collector –cum- District Magistrate, Araria, District- Araria.
3. The Sub-Divisional Officer, Araria, District- Araria.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.21995 of 2013

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Md. Dawood, son of Late Sk. Samid, resident of Village - Macchaila Takni, Gram Panchayat, Choktu, P.S. Mahalgaon, District – Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Old Secretariat, Patna, Bihar.
2. The Collector - cum - District Magistrate Araria, District Araria
3. Sub-Divisional Officer, Araria, District- Araria.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.22295 of 2013

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Shrawan Kumar Bhagat, son of Raj Kumar Bhagat, resident of Village Bhagat Tola, Belwa Ward No. 1, P.S. and District Araria.

.... Petitioner/s

Versus

1. The State of Bihar, through the Secretary, Food and Consumer Protection Depot. Old Secretariat, Patna, Bihar.
2. The Collector -cum- District Magistrate, Araria, District – Araria.
3. The Sub-Divisional Officer, Araria, District Araria.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.23674 of 2013

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Nilo Farheen, wife of Gulam Sarwar, resident of Village- Chainpur, P.S. Mahalgaon, District Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Depot, Old Secretariat, Patna, Bihar.
2. The Collector -cum- District Magistrate, Araria.
3. The Sub-Divisional Officer, Araria, District- Araria.

.... Respondent/s

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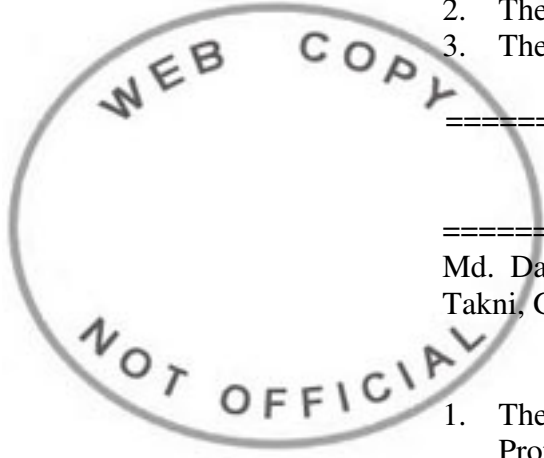
with

Civil Writ Jurisdiction Case No.23864 of 2013

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Tuliya Devi, wife of Dhanlal Yadav, resident of Village- Tarabi, P.S. - Palasi, District – Araria.

.... Petitioner/s



Versus
1. The State of Bihar through the Collector, Araria
2. The Collector, Araria.
3. The Sub-Divisional Officer, Araria.
..... Respondent/s

with
Civil Writ Jurisdiction Case No.23870 of 2013
Ganesh Lal Singh, son of Duli Chand Singh, resident of Village - Dhokaria,
P.S. - Araria, District – Araria.
..... Petitioner/s

Versus
1. The State of Bihar through the Collector, Araria
2. The Collector, Araria.
3. The Sub-Divisional Officer, Araria.
..... Respondent/s

with
Civil Writ Jurisdiction Case No.23886 of 2013
Md. Arif Mansuri, son of Late Serajuddin, resident of Village- Chandradei,
P.S.- Araria, District- Araria.
..... Petitioner/s

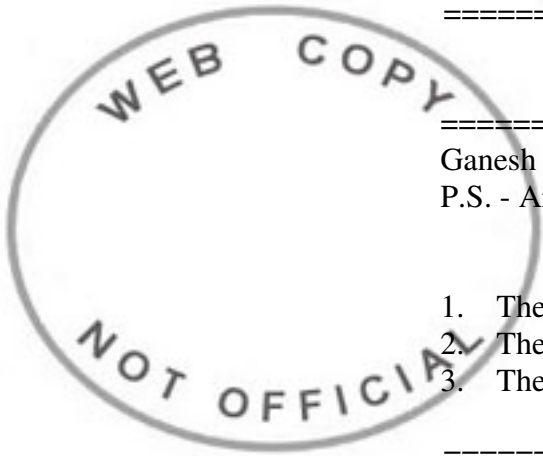
Versus
1. The State of Bihar through the Collector, Araria
2. The Collector, Araria
3. The Sub-Divisional Officer, Araria.
..... Respondent/s

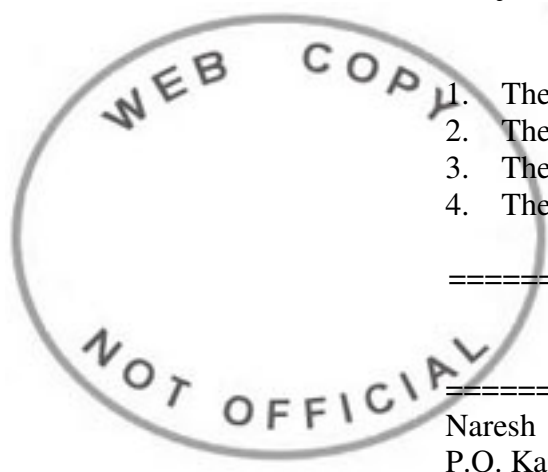
with
Civil Writ Jurisdiction Case No.24041 of 2013
Bibi Kabira Khatoon, W/O Md. Nooruddin, resident of Village - Kakorwa,
P.S. Palasi, District – Araria.
..... Petitioner/s

Versus
1. The State of Bihar
2. The Collector, Araria
3. The S.D.O., Araria.
..... Respondent/s

with
Civil Writ Jurisdiction Case No.3905 of 2014
Dharmender Paswan @ Dharmendra Paswan, S/O Bechan Paswan,
Resident of Village- Ghurghura, P.S- Tarabari District- Araria.
..... Petitioner/s

Versus
1. The State of Bihar, through Collector, Araria.
2. The Collector, Araria.
3. The S.D.O. Araria.
..... Respondent/s





with
Civil Writ Jurisdiction Case No.7883 of 2014
=====

Pramod Kumar Paswan, son of Mukti Paswan, resident of Village -
Khajurbari, P.O. - Mehdipur, Block - Kursa Kanta, District - Araria.
..... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, Araria.
3. The Sub-Divisional Officer, Araria.
4. The Block Supply Officer Kurshakanta, District - Araria.
..... Respondent/s

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with
Civil Writ Jurisdiction Case No.7974 of 2014
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Naresh Mohan Jha, son of Kedar Nath Jha, residence of village Bakhari
P.O. Kamaldaha, Block- Kursha Katta, District- Araria.
..... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, Araria.
3. The Sub-Divisional Officer, Araria.
4. The Block Supply Officer Kurshakanta, District- Araria.
..... Respondent/s

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with
Civil Writ Jurisdiction Case No.7976 of 2014
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Punam Devi, wife of Rajesh Prasad Sah, residence of Village Balchanda,
P.O. Rahusi, Block Kursha Katta, District- Araria.
..... Petitioner/s

Versus

1. The State of Bihar
2. The District Collector, Araria
3. The Sub-Divisional Officer, Araria
4. The Block Supply Officer Kurshakanta, District- Araria.
..... Respondent/s

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with
Civil Writ Jurisdiction Case No.8497 of 2014
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Md. Hadish, son of Md. Kalim Uddin, resident of village - Charebanna
Sahadi, P.O. Karar Dighli, Block & P.S. - Palasi, District – Araria.
..... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Araria.
3. The Sub-Divisional Officer, Araria.
4. The Block Supply Officer, Palasi, District – Araria.
..... Respondent/s

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with
Civil Writ Jurisdiction Case No.12873 of 2014

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Md. Siddique, S/o Late Manni Mian @ Munni Mian, resident of village Hasanpur, P.S. Raniganj District Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Araria
2. The S.D.O., Araria.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.13022 of 2014

=====

Bibi Gulshan, W/o Md. Shabir Alam, R/o Village Kelabari, P.S. Mahalgaon, District Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Araria.
2. The District Selection Committee, Araria.
3. The Sub-Divisional Magistrate, Araria.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.14635 of 2014

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Ishrat Jahan, Wife of Mushtaque, resident of village Binodpur P.O. Mirjapur P.S. Basaithi District Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector –cum- District Magistrate, Araria, District - Araria.
3. The Sub-Divisional Officer, Araria District Araria.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.14640 of 2014

=====

Naj Parween, wife of Awesh Alam, resident of village Dehti P.S. Palasi District Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Dept. Old Secretariat, Patna.
2. The Collector –cum- District Magistrate, Araria, District - Araria.
3. The Sub-Divisional Officer, Araria, District - Araria.

.... Respondent/s

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with

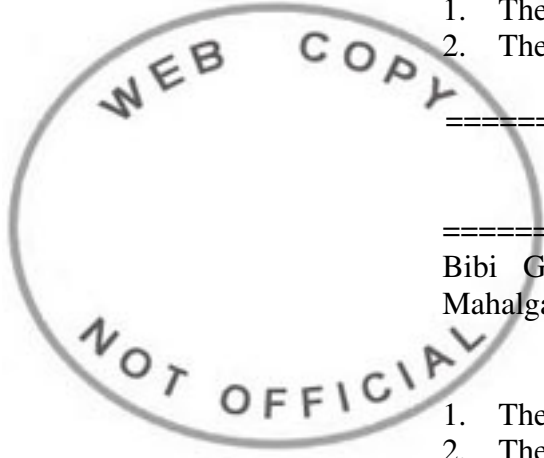
Civil Writ Jurisdiction Case No.16532 of 2014

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Rukaiya Khatoon, W/o Abu Basar, resident of Village- Gaira, P.S.- Araria, District- Araria.

.... Petitioner/s

Versus



1. The State of Bihar through the Collector, Araria.
2. The Collector, Araria.
3. The Sub-Divisional Officer, Araria.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.16686 of 2014

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Md. Nastar Alam, son of Late Jamiruddin, Resident of village Dhama,
Gram Panchayat Dhama P.S. Raniganj District- Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer
Protection Department, Old Secretariat, Patna
2. The Collector -cum- District Magistrate, Araria, District- Araria
3. The Sub-Divisional Officer, Araria, District Araria.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.17032 of 2014

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Bibi Nikhat Praween, W/o Abul Khair @ Sabir, resident of Village-
Raghunathpur, P.S. Raniganj, District- Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Araria.
2. The Collector, Araria.
3. The Sub-Divisional Officer, Araria.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.17062 of 2014

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Md. Muzaffar Hussain, son of Md. Safi Alam, resident of Village - Aratiya,
P.S. Jokihat, District – Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Araria
2. The Collector, Araria
3. The Sub-Divisional Officer, Araria.

.... Respondent/s

Appearance :

(In CWJC No.10498 of 2013)

For the Petitioner/s : Mr. Sanjay Kumar Sharma

For the Respondent/s : Mr. Kumar Sachin, GP-24

(In CWJC No.14113 of 2013)

For the Petitioner/s : Mr. Sanjay Kumar Sharma

For the Respondent/s : Mr. Manikant Mishra, GP-25

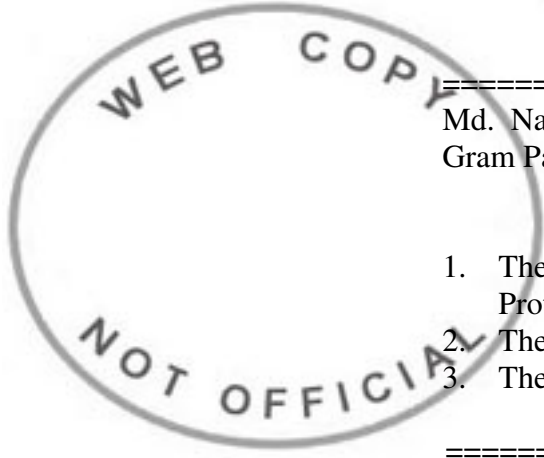
(In CWJC No.18676 of 2013)

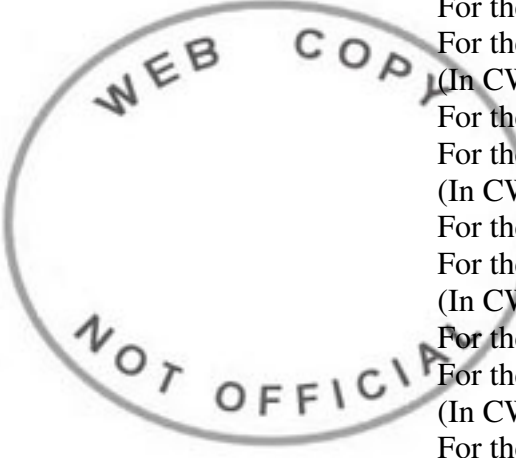
For the Petitioner/s : Mr. Md. Ziaul Quamar

For the Respondent/s : Mr. Rajesh Kumar, GP-21

(In CWJC No.19498 of 2013)

For the Petitioner/s : Mr. Sanjay Kumar Sharma





For the Respondent/s : Mr. Devendra Kr Sinha, AAG-2
 (In CWJC No.19648 of 2013)
 For the Petitioner/s : Mr. Md. Ziaul Quamar
 For the Respondent/s : Mr. Neelu Agrawal, GA-6
 (In CWJC No.21995 of 2013)
 For the Petitioner/s : Mr. Md. Ziaul Quamar
 For the Respondent/s : Mr. Ajay Bihari Sinha, SC-19
 (In CWJC No.22295 of 2013)
 For the Petitioner/s : Mr. Manish Kumar
 For the Respondent/s : Mr. Gautam Bose, AAG-8
 (In CWJC No.23674 of 2013)
 For the Petitioner/s : Mr. Md. Ziaul Quamar
 For the Respondent/s : Mr. Ajay, SC-11
 (In CWJC No.23864 of 2013)
 For the Petitioner/s : Mr. Sanjay Kumar Sharma
 For the Respondent/s : Mr. Pawan Kr. Mishra, GP-22
 (In CWJC No.23870 of 2013)
 For the Petitioner/s : Mr. Sanjay Kumar Sharma
 For the Respondent/s : Mr. Rajesh Kumar, GP-21
 (In CWJC No.23886 of 2013)
 For the Petitioner/s : Mr. Sanjay Kumar Sharma
 For the Respondent/s : Mr. Neeraj Nandan, GP-20
 (In CWJC No.24041 of 2013)
 For the Petitioner/s : Mr. Anil Prasad Singh
 For the Respondent/s : Mr. Shashi Bhushan Kr., SC-7
 (In CWJC No.3905 of 2014)
 For the Petitioner/s : Mr. Anil Prasad Singh
 For the Respondent/s : Mr. Ashok Kumar Keshri, AAG-11
 (In CWJC No.7883 of 2014)
 For the Petitioner/s : Mr. Ram Narayan Mahto
 For the Respondent/s : Mr. Uma Shankar, GP-4
 (In CWJC No.7974 of 2014)
 For the Petitioner/s : Mr. Ram Narayan Mahto
 For the Respondent/s : Mr. Prashant Pratap, GP-6
 (In CWJC No.7976 of 2014)
 For the Petitioner/s : Mr. Ram Narayan Mahto
 For the Respondent/s : Mr. Dhurjati Kr Prasad, GP-7
 (In CWJC No.8497 of 2014)
 For the Petitioner/s : Mr. Ram Narayan Mahto
 For the Respondent/s : Mr. Rajiv Kumar Singh, GP-2
 (In CWJC No.12873 of 2014)
 For the Petitioner/s : Mr. Anil Prasad Singh
 For the Respondent/s : Mr. Santosh Kumar Jha, GP-3
 (In CWJC No.13022 of 2014)
 For the Petitioner/s : Mr. Md. Bahauddin
 For the Respondent/s : Mr. Pandey Sanjay Sahay, SC-31
 (In CWJC No.14635 of 2014)
 For the Petitioner/s : Mr. Manish Kumar
 For the Respondent/s : Mr. V.K.Singh, GA-3
 (In CWJC No.14640 of 2014)
 For the Petitioner/s : Mr. Md. Ziaul Quamar
 For the Respondent/s : Mr. Prasoon Sinha, GA-2
 (In CWJC No.16532 of 2014)
 For the Petitioner/s : Mr. Sanjay Kumar Sharma

For the Respondent/s : Mr. P.N. Sahi, AAG-10
(In CWJC No.16686 of 2014)
For the Petitioner/s : Mr. Md. Ziaul Quamar
For the Respondent/s : Mr. Avnish Nandan Sinha, GP-11
(In CWJC No.17032 of 2014)
For the Petitioner/s : Mr. Sanjay Kumar Sharma
For the Respondent/s : Mr. Gautam Bose, AAG-8
(In CWJC No.17062 of 2014)
For the Petitioner/s : Mr. Sanjay Kumar Sharma
For the Respondent/s : Mr. Ashok Kumar Keshri, AAG-11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT

2 24-12-2014

Heard learned counsel for the petitioners and learned counsel for the State in the batch of these writ petitions.

With the consent of the parties the writ petitions have been taken up with a view to their final disposal at the stage of admission itself.

Since the issues raised in all these writ petitions are identical hence they have been taken up for hearing and disposal side by side. All the petitioners in the writ petitions in question are holding licences for running a shop under the Public Distribution System issued under the Bihar Trade Articles (Licences Unification) Order, 1984 (hereinafter referred to as the 'Unification Order'). In all the cases the licences of all these petitioners were cancelled by the licensing authority i.e. the Sub-Divisional Officer *inter alia* on grounds of non-approval of their licences by the District Selection Committee and the appeal preferred by these petitioners after being considered by the appellate authority i.e. the District Magistrate, the cases were



remanded for fresh consideration by the licensing authority for grant of fresh licence if the holders of licence fulfilled all eligibility criteria. Identical orders of cancellation and remand are subject matters of these writ petitions and hence they are being disposed of by a common order. The individual details of the writ petitioners are as follows:

(1) CWJC. No. 10498 of 2013:

The licence of the petitioner bearing Licence No. 08P of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal Case No.95 of 2007-08 was disposed of by the District Magistrate -cum- Collector, Araria vide order passed on 12.2.2008.

(2) CWJC No. 14113 of 2013

The licence of the petitioner bearing Licence No.27A of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal Case No.22 of 2007-08 was disposed of by the District Magistrate -cum- Collector, Araria vide order passed on 12.2.2008.

(3) CWJC No.18676 of 2013

The licence of the petitioner bearing Licence No.14J of 2007 was cancelled by the Sub-Divisional Officer, Araria

vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing District Appeal No.74 of 2007-08 was disposed of by the District Magistrate-cum-Collector, Araria vide order passed on 12.2.2008.

(4) CWJC No. 19498 of 2013

The licence of the petitioner bearing Licence No.19P of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal Case No.42 of 2007-08 was disposed of by the District Magistrate –cum-Collector, Araria vide order passed on 12.2.2008.

(5) CWJC No.19648 of 2013:

The licence of the petitioner bearing Licence No.11J of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal No.259 of 2007-08 was disposed of by the District Magistrate –cum-Collector, Araria vide order passed on 12.2.2008.

(6) CWJC No.21995 of 2013

The licence of the petitioner bearing Licence No.17J of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal No.109 of

2007-08 was disposed of by the District Magistrate –cum- Collector, Araria vide order passed on 12.2.2008.

(7) CWJC No.22295 of 2013

The licence of the petitioner bearing Licence No.14A of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal No.99 of 2007-08 was disposed of by the District Magistrate –cum- Collector, Araria vide order passed on 12.2.2008.

(8) CWJC No.23674 of 2013

The licence of the petitioner bearing Licence No.16J of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal No.182 of 2007-08 was disposed of by the District Magistrate –cum- Collector, Araria vide order passed on 12.2.2008.

(9) CWJC No.23864 of 2013

The licence of the petitioner bearing Licence No.07P of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal Case No.210 of 2007-08 was disposed of by the District Magistrate –cum- Collector, Araria vide order passed on 12.2.2008.

(10) CWJC No.23870 of 2013

The licence of the petitioner bearing Licence No.29A of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal Case No.288 of 2007-08 was disposed of by the District Magistrate –cum-Collector, Araria vide order passed on 12.2.2008.

(11) CWJC No.23886 of 2013

The licence of the petitioner bearing Licence No.30A of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal Case No.46 of 2007-08 was disposed of by the District Magistrate –cum-Collector, Araria vide order passed on 12.2.2008.

(12) CWJC No.24041 of 2013

The licence of the petitioner bearing Licence No.18P of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal Case No.149 of 2007-08 was disposed of by the District Magistrate –cum-Collector, Araria vide order passed on 12.2.2008.

(13) CWJC No.3905 of 2014

The licence of the petitioner bearing Licence No.15A



of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal Case No.52 of 2007-08 was disposed of by the District Magistrate –cum-Collector, Araria vide order passed on 12.2.2008.

(14) CWJC No.7883 of 2014

The licence of the petitioner bearing Licence No.04K of 2006 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal Case No.209 of 2007-08 was disposed of by the District Magistrate –cum-Collector, Araria vide order passed on 12.2.2008.

(15) CWJC No.7974 of 2014

The licence of the petitioner bearing Licence No.06K of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal Case No.227 of 2007-08 was disposed of by the District Magistrate –cum-Collector, Araria vide order passed on 12.2.2008.

(16) CWJC No.7976 of 2014

The licence of the petitioner bearing Licence No.04K of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said

order preferred by the petitioner bearing Appeal Case No.208 of 2007-08 was disposed of by the District Magistrate –cum-Collector, Araria vide order passed on 12.2.2008.

(17) CWJC No.8497 of 2014

The licence of the petitioner bearing Licence No.25P of 2006 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal Case No.199 of 2007-08 was disposed of by the District Magistrate –cum-Collector, Araria vide order passed on 12.2.2008.

(18) CWJC No.12873 of 2014

The licence of the petitioner bearing Licence No.7R of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal No.160 of 2007-08 was disposed of by the District Magistrate –cum-Collector, Araria vide order passed on 12.2.2008.

(19) CWJC No.13022 of 2014

The licence of the petitioner bearing Licence No.12J of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal Case No.262 of 2007-08 was disposed of by the District Magistrate –cum-

Collector, Araria vide order passed on 12.2.2008.

(20) CWJC No.14635 of 2014

The licence of the petitioner bearing Licence No.18R of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal No.247 of 2007-08 was disposed of by the District Magistrate –cum-Collector, Araria vide order passed on 12.2.2008.

(21) CWJC No.14640 of 2014

The licence of the petitioner bearing Licence No.17P of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal No.175 of 2007-08 was disposed of by the District Magistrate –cum-Collector, Araria vide order passed on 12.2.2008.

(22) CWJC No.16532 of 2014

The licence of the petitioner bearing Licence No.16A of 2006 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal Case No.263 of 2007-08 was disposed of by the District Magistrate –cum-Collector, Araria vide order passed on 12.2.2008.

(23) CWJC No.16686 of 2014

The licence of the petitioner bearing Licence No.13R of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal No.06 of 2007-08 was disposed of by the District Magistrate –cum- Collector, Araria vide order passed on 12.2.2008.

(24) CWJC No.17032 of 2014

The licence of the petitioner bearing Licence No.1R of 2007 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal Case No.252 of 2007-08 was disposed of by the District Magistrate –cum- Collector, Araria vide order passed on 12.2.2008.

(25) CWJC 17062 of 2014

The licence of the petitioner bearing Licence No.43J of 2006 was cancelled by the Sub-Divisional Officer, Araria vide order passed on 20.12.2007 and the appeal against the said order preferred by the petitioner bearing Appeal Case No.108 of 2007-08 was disposed of by the District Magistrate –cum- Collector, Araria vide order passed on 12.2.2008.

I have heard learned counsel for the parties and I have perused the materials on record.



It is an admitted position that the licences of all these petitioners were granted under the 'Unification Order' and which vests the Sub-Divisional Officer with powers to grant licences. There was no stipulation in the Unification Order regarding seeking approval of the District Level Committee. The Central Government had issued a Public Distribution System (Control) Order, 2001 for regulating the licence issued under the Public Distribution System. However the same was notified in the State of Bihar vide GSR dated 20.2.2007 under the nomenclature of Fair Price Shop Order, 2007. Clause-2 of the Fair Price Shop Order, 2007 requires the District Level Committee to approve the licences recommended by the licensing authority i.e. the Sub-Divisional Officer but while making such stipulation, the order in Clause-2 also saves all such licences which were issued prior thereto and were existing on the date when the order came into force i.e. 20.2.2007. It is not in dispute that the licences of these petitioners were issued prior to the enforcement of the Fair Price Shop Order, 2007 containing such Clause and by virtue of Clause-2 the licences issued by the licensing authority under the provisions of the 'Unification Order' stood saved. Perusal of the order of cancellation passed by the licensing authority as impugned in the writ petition manifests that even when there are no complaints as

regarding functioning of these petitioners nor they have been found allegedly violating the conditions of licences, yet the licences have been cancelled solely on the ground of lack of approval by the District Level Committee.

The stand of the State in support of these impugned orders is relying upon some circular dated 31.8.2006 requiring an approval by the District Level Committee. Thus even when the 'Unification Order' did not contain any such stipulation requiring approval by the District Level Committee, such requirement which is foreign to the stipulations was sought to be introduced through a departmental circular and it is in the light of these departmental circulars that the orders impugned have been passed. The orders impugned on the face of it are illegal and cannot be upheld.

These very issues fell for consideration in a case arising from CWJC No.14525 of 2008 (Ravi Shankar Mishra vs. The State of Bihar) and a coordinate Bench of this Court vide judgment and order passed on 4.11.2011 taking note of the stipulations as existing on the date under the 'Unification Order' and taking note of the fact that there was no such stipulation in the 'Unification Order' requiring approval by the District Level Committee and which stipulation was only introduced on 20.2.2007, was pleased to set aside the order of cancellation of

licences. The order of learned Single Judge was tested by the State in L.P.A No.292 of 2013 and which also was dismissed vide judgment and order passed on 14.3.2013. In view of the law settled by this Court which has attained finality and taking into consideration the lawful circumstances existing on the date of grant of licences to these petitioners, it leaves no room for confusion that the orders impugned in the respective writ petitions cannot be upheld and order of cancellation of licences as well as the order passed in appeal by the appellate authority as impugned in the respective writ petitions cannot be upheld and are accordingly set aside.

The writ petitions are allowed. The licences of the respective writ petitioners stands restored. The consequences shall follow.

(Jyoti Saran, J)

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