

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22 of 2014

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1. Mostt. Kaliya Devi Wife of Late Gyanti Yadav Resident of Village - Dhanawa,
Police Station - Bodhgaya, District - Gaya

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Commerce
Department, Government of Bihar, Patna
2. The District Magistrate, Gaya , at and P.O Gaya
3. The District Supply Officer, Gaya, at P.O Gaya
4. The Sub Divisional Officer, Sadar Gaya, at and P.O Gaya
5. The Block Supply Officer, at and P.O Bodhgaya, District Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar, Adv.

For the Respondent/s : Mr. Gopal Krishna Agrawal, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 17-03-2015

The petitioner a licensee for running a fair price shop under the Public Distribution System bearing Licence No. 3 of 1995 is aggrieved by the order of cancellation dated 25.10.2008 passed by the Licensing Authority-cum-Sub Divisional Officer, Sadar, Gaya, a copy of which is placed at Annexure-2 to the writ petition as well as the appellate order confirming the same dated 15.12.2012 in Case No. 79 of 2010 passed by the District Magistrate, Gaya placed at Annexure-4.

Mr. Alok Kumar learned counsel for the petitioner with reference to the order of cancellation placed at Annexure-2 has submitted that initially certain allegations were set out against the petitioner but the explanation given by the petitioner was accepted



and the matter was closed. He submits that subsequently a second inspection took place by the District Supply Officer which came up with three new set of allegations totally different from the earlier one and the Licensing Authority while rejecting the explanation of the petitioner suspended the licence of the petitioner vide order passed on 21.8.2007 as is manifest from the impugned order of cancellation. He submits that a third inquiry was made by the Block Supply Officer who recommended for revocation of licence but the Licensing Authority without taking note of such recommendation has proceeded to cancel the licence of the petitioner which is in teeth of the judicial pronouncement of this Court rendered in the case of **Shiv Chandra Jha Vs. Harideo Jha & Ors.** reported in **2013 (3) PLJR 956**. He submits with reference to the judgment that the petitioner could not be saddled with two penalties for the same offence.

A shoddy counter affidavit has been filed by the respondents who have merely reiterated the position but have not given any explanation why despite the recommendation of the Block Supply Officer, the licence of the petitioner instead of being revoked, was cancelled.

I have heard learned counsel for the parties and in view of the law laid down by this Court in the case of **Shiv Chandra Jha**(supra) the orders impugned obviously cannot be upheld.

In result, the order bearing Memo No. 1836 dated 25.10.2010 of the Licensing Authority-cum-Sub Divisional Officer along with the order passed by the District Magistrate, Gaya in Case No. 79 of 2010 dated 15.12.2012 are quashed and set aside. The licence of the petitioner stands restored.

The writ petition is allowed.

(Jyoti Saran, J)

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