

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1459 of 2012

IN

Civil Writ Jurisdiction Case No. 2597 of 2012

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1. Subhash Chandra Jha Son Of Late Vishwambhar Jha Resident Of Village-
Bahora, P.S.- Sarsi, District- Purnea

.... Appellant/s

Versus

1. The State Of Bihar Through The Secretary, Department Of Food And Civil
Supplies, Government Of Bihar, Patna
2. The Director, Department Of Food And Civil Supplies, Government Of Bihar,
Patna
3. The Divisional Commissioner, Purnea
4. The District Magistrate, Purnea
5. The District Supply Officer, Purnea
6. The Sub-Divisional Officer, Banmankhi, District- Purnea
7. The Incharge Block Supply Officer, Banmankhi, District- Purnea

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. PRAMOD MISHRA

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 30-07-2015

30.07.2015

Heard learned counsel for the parties.

Writ application of the petitioner was
dismissed by the Learned Single Judge, refusing to
interfere with the order of cancellation of a PDS license
in view of concurrent finding of facts.

Learned counsel for the appellant tries to draw
advantage of a recent Division Bench's decision, which
is the case of *Shiv Chandra Jha Versus Harideo Jha*,
reported in 2013 (3) P.L.J.R. 956, where a law was

enunciated that either a punishment of suspension or punishment of cancellation of license can be passed. Both the punishments cannot be imposed simultaneously.

It is the stand of the counsel for the appellant that the license of the petitioner was initially suspended, which was punishment enough, and then it has been cancelled.

Court has certain reservation on such a stand or plea taken, but taking into consideration the said decision of the Division Bench, the Court is remanding the matter back to the licensing authority for passing a fresh order after due notice to the petitioner keeping in mind the ratio of the Division Bench. The Court deliberately does not go into the nitty-gritty of the argument since the pleadings are cursory so are the materials available on record for such adjudication. The licensing authority is better placed with the original records, which can assist him for taking a fresh decision keeping in mind the Division Bench, which has been relied upon by the appellant, which is the case of Shiv Chandra Jha. (supra).

The impugned order, dated 07.08.2012, passed in C.W.J.C. No. 2597 of 2012 is set aside. So is



the order of the licensing authority, i.e., Sub-divisional Officer, Banmankhi, dated 07.10.2004 as well as the order passed by the Appellate Authority, i.e., the District Magistrate in Appeal No. 152 of 2005, dated 20th of February, 2007 and thereafter the order passed in revision by the Revisional Commissioner, dated 01.06.2011.

Appeal is allowed with observation / direction as above.

The licensing authority must adjudicate the matter on priority. The appellant will appear with a copy of this order before the licensing authority within 15 days from today.

(Ajay Kumar Tripathi, J.)

(Rajendra Kumar Mishra, J.)

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