

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1260 of 2015

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Yogendra Singh S/o Late Ramdhari Singh, resident of Village Raghupur,
P.S. Udwantnagar, District Bhojpur, State Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food & Civil Supply,
Government of Bihar.
2. District Magistrate, Bhojpur at Ara.
3. The Sub Divisional Officer, Sadar, Bhojpur, Ara.
4. The Block Supply Officer Udwant Nagar Block, District Bhojpur.
5. The District Supply Officer, Bhojpur at Ara.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Pranav Kumar, Advocate

For the Respondent/s : Mr. Sadanand Paswan, GP-29

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

5 07-07-2015 Heard the parties.

The petitioner is a holder of license under the Public Distribution System (Control) Order enforced vide Fair Price Shop Order, 2007 bearing License No. 77 of 1990. The license of the petitioner has been cancelled vide order dated 16.12.2009 impugned at Annexure-9 by the licensing authority-cum-Sub-Divisional Officer in the light of decision of the District Level Selection Committee passed on 08.10.2009 and which order has been confirmed by the appellate authority-cum-Collector, Bhojpur vide order dated 29.9.2014 passed in Revenue Appeal No. 13 of 2009-10.

Facts of case lie in a very narrow compass. A show cause notice was issued to the petitioner charging him with



irregularities on 30.5.2005 and requiring him to file a reply as to why his license be not suspended / cancelled for the said irregularities. The petitioner responded to the charges vide Annexure-2 and the licensing authority-cum-Sub Divisional Officer, Sadar Ara vide order bearing No. 470 dated 01.07.2005 suspended the license of the petitioner for the said charges. Since after 12.1.2006, the licensing authority vide recommendations placed at Annexure-4 to 8 recommended for revocation of suspension of the petitioner before the District Magistrate, Bhojpur but the District Level Selection Committee under the chairmanship of the District Magistrate vide decision taken on 08.10.2009 decided for cancellation of the license of the petitioner and which was communicated to the licensing authority vide order passed on 16.12.2009 placed at Annexure-9 informing the petitioner accordingly. The appeal preferred by the petitioner giving rise to Revenue Appeal No. 13 of 2009-10 was dismissed hence the petitioner is before this Court.

I have heard learned counsel for the parties and I have perused the records. There is no contest on the issue that the order of suspension and cancellation rests on the same show cause notice and for the same irregularities as enumerated in Annexure-1. The issue whether a dealer under the 'Control Order' can be subjected to the penalties of suspension as well as cancellation for the same set of charges came to be deliberated upon before the

Division Bench in the case of (**Shiv Chandra Jha vs. Harideo Jha & Ors.**) reported in **2013(3) PLJR 956** and the Division Bench was of the opinion that a penalty of suspension and cancellation being two independent penalties under the 'Control Order', a dealer having already suffered the penalty of suspension on ground of certain irregularities, for the same set of charges, he cannot also be subjected to a penalty of cancellation.

In view of the law so settled by the Division Bench, it would not detain this Court to hold that the petitioner having already suffered the penalty of suspension vide order dated 1.7.2005, the decision of the District Level Selection Committee to cancel the license of the petitioner for the same set of allegations taken on 08.10.2009 as communicated by the licensing authority vide letter dated 16.12.2009 present at Annexure-9 as well as its affirmation by the appellate authority-cum-District Magistrate, Bhojpur at Ara in Revenue Appeal No. 13 of 2009-10 are unsustainable and the cancellation order as well as its affirmation are accordingly set aside. The license of the petitioner is restored.

The writ petition is allowed.

(Jyoti Saran, J)

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