

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18513 of 2014

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Rama Nand Paswan, aged about 53 years, Son of Late Balgovind Paswan,
resident of Village-Tinna, Police Station-Nagar Nausa, District-Nalanda.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of
Consumer and Food Protection, Government of Bihar, Patna.
2. The Principal Secretary, Department of Consumer and Food
Protection, Government of Bihar, Patna.
3. The District Magistrate, Nalanda.
4. The Special Officer (Rationing), Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha, Advocate

For the Respondent/s : Mr. SC10- Sheo Shankar Prasad, Advocate.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL ORDER

2 21-05-2015 Petitioner is a licensee under the Public Distribution System (Control) Order (hereinafter referred to as 'the Control Order') bearing Licence No. 14 of 1990. The licence of the petitioner was initially suspended on charges of alleged irregularity by the order bearing letter No. 498 dated 19.05.09 and the representation of the petitioner for restoring the position has resulted in the cancellation. The order of cancellation dated 15.3.2011 is present at Annexure-3 which is passed by the Special Officer, Rationing and which order has been affirmed by the Appellate Authority i.e. the District Magistrate, Nalanda when the appeal of the petitioner in E.C. Case No. 49 of 2011-12 has been dismissed on 11.5.2014.

The short issue raised by Mr. Anand Kumar Ojha,

learned counsel appearing for the petitioner is that for the same irregularity the petitioner could not have been penalized by suspension as well as cancellation and which orders of cancellation would be in the teeth of the judgment of this Court in a case reported in **2013 (3) P.L.J.R 956 (Shiv Chandra Jha –Vs.- Harideo Jha)**.

The legal position is well settled and there cannot be a penalty of suspension as well as cancellation for the same set of charges.

Since there is no dispute that the order of suspension and cancellation are based on the same set of allegation, hence, the petitioner having suffered the penalty of suspension he cannot be visited with the penalty of cancellation for the same set of charges.

In result the order of cancellation dated 15.3.2011 and the appellate order dated 11.5.2014 passed in E.C. Case No. 49/2011-12 cannot be upheld and are accordingly set aside.

The writ petition is allowed.

The licence of the petitioner is restored.

(Jyoti Saran, J.)

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