

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1307 of 2015

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1. Ashtosh Paswan S/o Jagdeo Paswan resident of village - Malsari, Via - Chakand, P.O. Laxmipur, P.S. Tekari, District - Gaya

.... Petitioner/s

Versus

1. The State of Bihar through Commissioner, Magadh Division, Gaya
2. The District Magistrate - Cum - Collector, Gaya
3. The Sub-Divisional Officer, Tekari, District Gaya
4. The District Supply officer, District Gaya
5. The Block Supply officer, Tekari, District - Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish Jha, Adv.

For the Respondent/s : Mr. Arvind Kumar No. 2, SC-17

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 07-07-2015 Heard learned counsel for the parties.

The petitioner is a holder of licence under the Public Distribution System Control Order as enforced vide Fair Price Shop Control Order, 2007 in the State (hereinafter referred to as 'the Control Order') bearing License No. 5 of 2001. The licence of the petitioner has been cancelled under the orders of the Licensing authority passed on 4.6.2012 a copy of which is placed at Annexure -3 and which order has been affirmed by the appellate authority as well as the revisional authority vide order passed in Appeal No. 15 of 2013 present at Annexure-7 and Revision Case No. 31 of 2014 present at Annexure-8. The petitioner being aggrieved is before this Court.

Mr. Abhay Kumar Thakur, has appeared for the petitioner while the State is represented by Mr. Sanjeev Kumar Mishra A.C. to S.C.17.

Perusal of the records manifest that the petitioner was charged on 4 grounds and the allegations are set out in the show cause dated 5.5.2012 present at Annexure-1 which are as follows:

- (a) The notice board was not put up.
- (b) The price list and the stock position was not put up.
- (c) The petitioner did not produce any registers; and
- (d) The petitioner obtained extra coupon of the consumers and also supplied the foodgrains and kerosene oil on high rate.

A show cause reply was filed by the petitioner accepting the allegations. In so far as allegation Nos.(a) to (c) are concerned, he submitted that due to his absence, the notice board could not be put up nor the registers could be produced and in so far as obtaining extra coupon is concerned he admitted to the charge but put the responsibility on the consumers saying that they have deposited it on their own volition. It is in acceptance of the irregularity that the orders impugned have been passed.

Mr. Thakur learned counsel for the petitioner while questioning the impugned orders has submitted that whereas the

allegation regarding the information not being put up and the register not being produced are wholly on account of absence of the petitioner on the date of inspection, in so far as the allegation No.(d) regarding obtaining extra coupon is concerned, the evidence of the consumers is that they have deposited the same on their own violation as manifest from Annexure-4 and which is sufficient to clear the position.

The arguments have been contested by learned counsel for the State on grounds that in view of the acceptance of the guilt nothing survives.

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

I am in agreement with the counsel for the State inasmuch as all the allegations that have been set up against the petitioner has been accepted and even if the consumers are stated to have accepted the deposit of extra coupon with the petitioner but since the law prohibits acceptance of extra coupon, the admission by the petitioner is sufficient to uphold the impugned orders.

The writ petition is dismissed.

(Jyoti Saran, J)

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