

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19419 of 2013

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1. Santosh Kumar Ojha S/O Sri Nand Kumar Ojha Resident Of Village- Jamuan, P.S- Behiyan, P.O- Behiyan, District- Bhojpur (Ara), Bihar.
 2. Shyam Narayan Mishra S/O Sri Ramjee Mishra Resident Of Village- Mishrauli, P.S- Behiyan, P.O- Sandaur, District- Bhojpur (Ara), Bihar.
 3. Manju Devi W/O Sri Shivji Yadav Resident Of Village- Banahi, P.S- Shahpur, P.O- Banahi, District- Bhojpur (Ara), Bihar.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary, Food And Civil Supply, Government Of Bihar, Patna.
2. The District Magistrate, Bhojpur At Ara, (Bihar)
3. The District Supply Officer, Bhojpur At Ara. (Bihar)
4. The Sub Divisional Officer, Jagdishpur, District- Bhojpur, Ara, Bihar.
5. The Block Supply Officer, Behiyan, District- Bhojpur (Ara), Bihar.
6. The Supply Inspector, Behiyan Block, District- Bhojpur (Ara), Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gajendra Nath Ojha

For the Respondent/s : Mr. Namrta Mishra

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

2 24-09-2015

All the three petitioners seek quashing of the order dated 04.06.2004, passed by the Sub-Divisional Officer, Jagdishpur canceling their Panel license, which was affirmed by order dated 30.11.2012, passed in Revision Appeals by the Collector, Bhojpur.

The relevant facts necessary for disposal of the case is indicated herein below:

The essential commodities were initially distributed through regular dealers under Public Distribution System. When a regular dealer was not able to lift the commodity either due to suspension of the shop or any reason, the beneficiaries of the shop were attached



with the distant shop mostly of another village. The beneficiary felt immense difficult in purchasing the commodity from the distant shop, the Government as such decided to appoint Panel dealers under Public Distribution System to mitigate their difficulties. The Government, as such directed to appoint Panel dealers on each regular dealer vide Departmental letter no. 1347 dated 31.03.1992 of erstwhile Food and Civil Supplies Department. As per the circular, when a regular dealer would not be able to lift the commodity, either on account of suspension of the dealership or for any other reason, it is the duty of Panel dealer, who was number one on the Panel list to lift the commodities and distributed among the beneficiaries. In case, the Panel dealer, who is number one on the list, fails to do the task, number two on the Panel list was entrusted with the work. A copy of Department letter no. 1347 dated 31.03.1992 has been annexed as Annexure-A to the counter affidavit. As per the Government Circular, the petitioners and others were appointed as Panel dealers in Jagdishpur Sub-Division of Bhojpur District. They were too granted commodities as regular dealers.

The District Magistrate later on noticed that no P.D.S. license has been issued to Panel dealers in other districts. He also found that in fact the number of P.D.S. dealers appointed were more than the norms fixed in the district. The District Magistrate, Bhojpur as such through a common order cancelled the license of P.D.S. dealer through a resolution passed in a meeting, which was communicated vide Memo no. 517 dated 17.07.2002.

Thus, the license of the petitioners were also cancelled. A photo copy of Memo no. 517 dated 17.07.2002 is annexed as Annexure-B to the counter affidavit.

It appears that as license of the Panel dealers in Bhojpur district were cancelled without asking show-cause, some of them moved this Court including one of the petitioners. A learned Single Judge of this Court vide order dated 08.04.2003, passed in C.W.J.C. No. 1203 of 2002 and C.W.J.C. No. 13868 of 2002 set aside the order cancelling the license, as the same were passed without providing a show-cause. The copy of the order dated 08.04.2003 has been annexed as Annexure-5 to this petition.

It appears that the license of all the three petitioners was restored and a separate show-cause was given to them by the Sub Divisional Officer to which the petitioners filed their reply. Not being satisfied with the explanation of the petitioners, the Sub Divisional Officer, Jagdishpur vide Memo No. 506, 507 and 509 cancelled the P.D.S. license of all the three petitioners.

Being aggrieved, the petitioners filed revision before the learned District Magistrate, Bhojpur bearing Revision Appeal No. 06 of 2004-05, 08 of 2004-05 and 09 of 2004-05.

The petitioners submit that the licensing authority cancelled the license without meeting the grounds mentioned in the show-cause. The petitioners submit that they were granted license in accordance with the Government resolution contained in Memo No. 1347

dated 31.03.1992.

There is no allegation that they have violated any of the terms and conditions of the license. They further submit that the respondents have adopted pick and choose method, as many Panel dealers, namely, Sanjay Kumar Tiwari under Jagdishpur Sub-Division and Ram Awadhesh Singh under Udwant Nagar Block are still working as Panel dealer.

I find that the licensing authority had cancelled the license of the petitioners on the ground that their replies are not satisfactory and not tenable in law. The order of the licensing authority has been affirmed in appeal. I find that while passing the impugned orders, the authorities ought to have addressed the grounds taken by the petitioner in their show-cause reply.

In the result, this application succeeds. The impugned orders cancelling the Panel license of the petitioners also affirmed in appeals, as contained in Annexures 9 Series and 11 Series, are set aside with liberty to the licensing authority to proceed afresh in accordance with law.

The writ application is allowed to the extent mentioned above.

(Samarendra Pratap Singh, J)

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