

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15809 of 2013

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Meena Bharti, Wife of Sri Surendra Prasad Yadav, Resident of Village -
Hardi (Purab)Tola, Chaughara, P.O. Hardi, P.S. Supaul, District - Supaul
..... Petitioner.

Versus

1. The State of Bihar through the Secretary Food and Consumer Protection
Department, Old Secretariat, Patna
 2. The Commissioner, Koshi Commissionery, Saharsa, District - Saharsa
 3. The Collector, Supaul, District - Supaul
 4. The Sub - Divisional Officer, Supaul, District - Supaul
..... Respondents
- =====

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Advocate
For the Respondent/s : Mr. Avnish Nandan Sinha

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH**
ORAL ORDER

4 17-09-2015 Heard learned counsel for the petitioner and the State.

The petitioner seeks quashing of the order dated
08.08.2009, passed by the Sub-Divisional Officer, Supaul, which
was affirmed in appeal and revision by the Collector, Supaul and
commissioner, Koshi Division, Saharsa.

The fact of the case in short is that on allegations of
preventions of terms and conditions of license, the petitioner's
P.D.S. license was earlier suspended and thereafter cancelled.

The petitioner submits that order of suspension and
cancellation are mutually exclusive and both cannot be inflicted
either simultaneously or one after giving other. In support of his
submission, learned counsel has relied upon a Division Bench

order dated 25.09.2013, passed in C.W.J.C. No. 10717 of 2008, heard analogous with batch of cases.

Counsel for the State submits that earlier Unification Order provided that a license can be suspended pending proposed proceeding for cancellation of license. He disputes Clause 11 of the Bihar Trade Articles (Licences Unification) Order that pending cancellation proceeding, a license can be suspended under Clause 11 of 1984 Unification Order. However, the said provision has been omitted in the newly Control Orders of 2001, 2007 and 2011.

As such, I find that the order dated 25.09.2013, of the Division Bench passed in C.W.J.C. No. 10717 of 2008 (Raghaw Sharan Pandey Vs. The State of Bihar & Ors.) fully cover the case of the petitioner.

In the result, this writ application succeeds, the impugned orders of all the three authorities are set aside and the license of the petitioner stands restored.

This application stands allowed.

(Samarendra Pratap Singh, J.)

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