

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21609 of 2014

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Manoj Kumar @ Manoj Kumar Gupta, son of Sri Nandu Sah, resident of Village,
P.O and P.S- Karai Parsurai, District - Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Nalanda, District Nalanda.
3. The Sub-Divisional Officer, Hilsa, District – Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh

For the Respondent/s : Mr. Santosh Kumar Jha, GP-3

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 15-05-2015

Heard Mr. Rajeev Kumar Labh, learned counsel for the
petitioner and learned counsel for the State.

The petitioner is a licensee under the Public
Distribution System (Control) Order, 2001 as enforced vide Fair
Price Shop Order, 2007 (hereinafter referred to as ‘the Control
Order’) bearing Licence No.K-13 of 2007 (New)/6 of 1987 (Old).

Owing to certain irregularities the licence of the
petitioner was initially suspended vide order bearing Memo No.26
dated 5.1.2008 placed at Annexure-4 and by the same order the
petitioner was asked to show cause against the proposed
cancellation. The petitioner filed his show cause and same not



finding satisfactory that the order of cancellation has been passed vide order bearing Memo No.73 (Mu) dated 3.4.2008 placed at Annexure-1 and which order has been affirmed in appeal by the appellate authority vide order passed on 6.11.2013 in Supply Case No.39 of 2008 placed at Annexure-6.

A very short issue has been raised by Mr. Labh, learned counsel appearing for the petitioner to question the impugned orders and while relying upon a Division Bench judgment of this Court rendered in the case of **Shiv Chandra Jha vs. Harideo Jha** as reported in **2013(3) PLJR 956**, he submits that once for a set of allegation, the petitioner has already suffered a penalty of suspension then for the same set of charges he cannot be again visited with the penalty of cancellation.

Considering that the issues raised by the petitioner is squarely covered by the judgment rendered in the case of **Shiv Chandra Jha** (supra) this Court does not deem it necessary to await a completion of formality by filing of counter affidavit. It is apparent that for the same set of allegation the licence of the petitioner was suspended vide order passed on 5.1.2008 (Annexure-4) and by the same order a notice of proposed

cancellation has also been issued and following which the order of cancellation as well as the affirmance has been passed. The issue raised by the petitioner stands covered by the judgment rendered in the case of **Shiv Chandra Jha** (supra).

In result, the order of cancellation bearing Memo no.73(Mu) dated 3.4.2008 as contained in Annexure-1 together with the appellate order dated 06.11.2013 passed in Supply Case No.39 of 2008 as contained in Annexure-6 respectively cannot be upheld and are accordingly set aside. The licence of the petitioner stands restored.

The writ petition is allowed.

(Jyoti Saran, J)

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