

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.25177 of 2013

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Ashok Kumar Mahto, s/o Late Khakhnu Mahto, resident of mohalla-Pandasarai,
PS- Laheria Sarai, Dist- Darbhanga.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Food and Civil Supply,
Govt. of Bihar, Patna
2. The Collector, Darbhanga
3. The Sub-divisional Officer, Darbhanga
4. The District Supply Officer, Darbhanga

.... Respondents

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Appearance :

For the Petitioner : Mr. Deepak Kumar, Advocate

For the State : Mr. Sudhir Kr. Singh, AC to GA-4

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 26-04-2016

Heard parties.

Petitioner's licence granted for running a P.D.S. shop was suspended vide order dated 15.10.2009 passed by the Sub-Divisional Officer-cum-licensing authority, Sadar, Darbhanga, a copy of which has been appended as Annexure-2. Through the said document, the petitioner was also directed to show cause as to why his licence should not be cancelled upon the charges as stated therein. Subsequently, the petitioner's licence was cancelled vide Annexure-4 dated 04.11.2009 by the same authority after consideration of reply to the show cause. The petitioner's appeal filed against the said order was also dismissed vide Annexure-6 dated 06.09.2013 by Collector-cum-District Magistrate, Darbhanga.

The sole ground raised on behalf of the petitioner is that once the licence of the petitioner was suspended, its subsequent cancellation is in teeth of law rendered by a Division Bench of this Court in *Shiv Chandra Jha v. Harideo Jha 2013 (3) PLJR 956* holding that the Control Order does not contemplate suspension of licence pending the proceeding or in contemplation of the proceeding for cancellation of licence as power of suspension or cancellation under Clause 7(ii) is clearly the power to impose punishment. Once the punishment of suspension of licence is chosen and inflicted then there cannot be another punishment by way of cancellation as no one can be punished twice for the same act, misconduct or offence.

Accordingly, this writ application succeeds. The impugned order as contained in Annexure-4 is quashed and set aside. Since the period of suspension in the earlier provision was only for 90 days, the order of suspension has also outlived its life and as such the supplies to the petitioner's shop should be restored forthwith.

(Dr. Ravi Ranjan, J.)

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