

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5027 of 2016

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Jay Prakash Ram @ Prakash Ram, son of Late Lakhan Ram, resident of village-Chhamachhiya, Post-Ranouk, P.S.-Morkahi, District-Khagaria.

.... Petitioner

Versus

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

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Advocate

For the Respondent/s : Mr. Mahtab Alam, AC to SC-20

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-12-2016

Heard parties.

The petitioner assails Annexure-1, which is an order dated 30.12.2011, by which the Sub-Divisional Officer-cum-Licensing Authority, Khagaria has cancelled his PDS Licence No.116K/2007.

From the impugned order, it is apparent that the licence has been cancelled in view of the FIR having been lodged against the petitioner.

In my view, the order impugned is not at all sustainable in the eye of law inasmuch as there is no provision under the Bihar Public Distribution (Control) Order, 2001 for cancellation of licence on the ground of lodgment of the FIR. There is a provision under



Clause 14 of the Control Order that in case the licensee is convicted under the provisions of the Essential Commodities Act then the licensing authority would be required to record an order of cancellation of his licence. Initially, there was a provision under Section 7 (iii) laying down that if a police case is registered against the licensee under the provisions of Essential Commodities Act then the licence would remain suspended till the finalization of the criminal case, however, the suspension word has subsequently been omitted from the Control Order vide amendment brought in the statute made effective from 23.06.2011. Thus, on the basis of lodgment of the FIR, the licence can neither be suspended nor can it be cancelled. There is apparent error in the impugned order and, as such, the same is held to be not sustainable in the eye of law.

That apart, such cancellation or suspension was never available against any conviction under a Statute other than the Essential Commodities Act but in the present case, FIR has been registered against the petitioner under Section 409 of the Indian Penal Code as would be apparent from Annexure-3. On that count also, the order of cancellation would be in teeth of law declared by a Division Bench of this Court rendered in L.P.A. No.1572/2010 (Girani Ram Vs. The State of Bihar) a copy of which has been appended as Annexure-5.



As a result, this application succeeds. The order impugned, as contained in Annexure-1, is quashed and set aside.

If the petitioner is on bail in the concerned criminal case then his allotment should be resumed at once.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
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