

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 7369 of 2016

=====

Keshav Lal Sah, Son of Late Heera Lal Sah, resident of Village-
Repura, Panchayat Badi Isar, Block, Hathua, P.S.- Mirganj, District-
Gopalganj. Petitioner.

Versus

1. The State of Bihar through the Secretary, Food and Civil Supplies,
Govt. of Bihar, Patna.
 2. The Commissioner, Saran.
 3. The District Magistrate-cum- Collector, Gopalganj.
 4. The Sub Divisional Officer, Hathua, Gopalganj.
 5. The Asst. District Supply Officer, Gopalganj.
 6. The Block Supply Officer, Hathua, Gopalganj. Respondents.
- with

=====

Civil Writ Jurisdiction Case No. 7767 of 2016

=====

Shivjee Sah, Son of Late Laxmi Sah, resident of Village- Neruai,
Panchayat Ekdanga, Block- Hathua, P.S.- Mirganj, District- Gopalganj.
.... Petitioner.

Versus

1. The State of Bihar through the Secretary, Food and Civil Supplies,
Govt. of Bihar, Patna.
 2. The Commissioner, Saran.
 3. The District Magistrate-cum- Collector, Gopalganj.
 4. The Sub Divisional Officer, Hathua, Gopalganj.
 5. The Asst. District Supply Officer, Gopalganj.
 6. The Block Supply Officer, Hathua, Gopalganj..... Respondents.
- with

=====

Civil Writ Jurisdiction Case No. 8016 of 2016

=====

Shivnath Shah, Son of Late Shivbalak Sah, Resident of Village -
Rupunchak, Panchayat Ratan Chak, Block - Hathua, P.S. Mirganj,
District – Gopalganj. Petitioner.

Versus

1. The State of Bihar through the Secretary, Food and Civil Supplies,
Govt. of Bihar, Patna
 2. The Commissioner, Saran
 3. The District Magistrate - Cum - Collector, Gopalganj
 4. The Sub - Divisional officer, Hathua, Gopalganj
 5. The Asst. District Supply Officer, Gopalganj
 6. The Block Supply Officer, Hathua, Gopalganj Respondents
- =====

Appearance :



(In CWJC No.7369 of 2016)

For the Petitioner/s : Mr. Arun Kumar Singh No. V, Adv.

For the Respondent/s : Mr. Kameshwar Kumar, GP-17

: Mr. Arif Bhushan, AC to GP-17.

(In CWJC No.7767 of 2016)

For the Petitioner/s : Mr. Arun Kumar Singh No. V, Adv.

For the Respondent/s : Mr. Manoj Kumar, AC to GP-16

(In CWJC No.8016 of 2016)

For the Petitioner/s : Mr. Arun Kumar Singh No. V, Adv.

For the Respondent/s : Mr. Kinkar Kumar-SC9

: Mr. Rakesh Kumar Sharma, AC to SC 9

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 17-11-2016

Identical issues are involved in all the three cases and, as such, they are being heard together and disposed of by this order.

Petitioners seek quashing of order dated 20.02.2008, as contained in Annexure-2, passed by the Licensing Authority-cum-Sub-divisional Officer, Hathwa, Gopalganj by which he has cancelled their licence nos. 5/2003, 9/1993 and 01/1997 and the appellate orders dated 15.07.2011, 24.10.2011 and 15.07.2009, as contained in Annexure-5 and 4, passed by the Collector, Gopalganj as well as the revisional order dated 23.02.2016, as contained in Annexure-6, passed by the Commissioner, Saran in Supply Revision Nos. 232/2011, 231/2011 and 230/2011 respectively by which he has dismissed the revision and upheld the order passed by the Licensing Authority and Appellate Authority.



A short question has been raised on behalf of the petitioners that once the licence of the petitioners was suspended vide orders dated 19.09.2007, 03.07.2007 and 29.07.2007, as contained in Annexure-1, the subsequent cancellation of licence on the self same charge vide Anneure-2 was without jurisdiction. Secondly, it is submitted in all the three cases that recommendation was for revocation of suspension but, since the District Level Selection Committee refused to revoke the suspension, the Licensing Authority has passed order of cancellation. It is contended that the District Level Selection Committee was not empowered to take a decision with respect to suspension or cancellation of licence.

I find force in the submission raised on behalf of the petitioners that the District Level Selection Committee is not empowered the power of suspension and cancellation of licence. Clause 7(ii) of the Public Distribution System (Control) Order, 2001 is the guiding statute which only empowers the Licensing Authority to take a decision in this regard and District Level Selection Committee has no role to play in such matters.

In my view, this writ petition would succeed on the sole ground that the Division Bench of this Court in the case of **Shiv Chandra Jha vs. Harideo Jha [2013(3) PLJR 956]** has held that once the decision of punishment of suspension is chosen by the



Licensing Authority, it would not be competent to proceed further and cancel the licence on self same charges as the person cannot be punished on the same irregularities.

As a result, this writ petition succeeds, the impugned order dated 20.02.2008 passed by the Licensing Authority-cum-Sub-divisional Officer, Hathwa, Gopalganj, as contained in Annexure-1 and the appellate orders dated 15.07.2011, 24.10.2011 and 15.07.2009, as contained in Annexure-5 and 4, passed by the Collector, Gopalganj as well as the revisional order dated 23.02.2016, as contained in Annexure-6 passed by the Commissioner, Saran in Supply Revision Nos. 232/2011, 231/2011 and 230/2011 are, hereby, set aside. The orders of suspension dated 19.09.2007, 03.07.2007 and 29.07.2007 has also outlived its life, therefore, the petitioners' licence would stand revived forthwith and they would be entitled for immediate resumption of supply.

Accordingly, these writ petitions stand allowed.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.02.2017
Transmission Date	NA

