

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10045 of 2016

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Anita Devi, W/o Arvind Singh, resident of Village- Jigua Gopal, P.S.-Mirganj,
Anchal- Hathwa, District- Gopalganj.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supplies, Govt. of Bihar, Patna.
2. The District Magistrate-cum- Collector, Gopalganj
3. The Assistant Supply Officer, Gopalganj
4. The Assistant District Supply Officer, Gopalganj
5. The Sub-Divisional Officer, Hathwa, Gopalganj
6. The Block Supply Officer, Hathwa, Gopalganj.

.... Respondents

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Appearance :

For the Petitioner : Mr. Arun Kumar Singh, Advocate
For the Respondents : Mr. Rewati Kant Raman, AC to SC 11

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 01-12-2016

Heard the parties.

Petitioner's PDS shop was inspected by the inspection team constituted by the District Magistrate on 29.9.2014 at 12.20 PM but the shop was found closed and nobody was present, therefore, verification of various registers and stock could not be made. However, allegedly the statement of 9 beneficiaries were recorded who had made allegations against the dealer.

Show cause notice was issued to the petitioner. She



submitted a reply. In reply, she had tried to explain the omission on her part saying that the petitioner was at home and her husband had gone to receive kerosene oil at Mirganj. With the reply, statements of all the beneficiaries, who had allegedly made allegations before the inquiry team, have also been appended saying that they have no grievance against the petitioner. The licensing authority has disbelieved those statements considering them to be afterthought and made for the purpose of defeating the inquiry report. Thus, the reply to the show cause notice was rejected and licence of the petitioner was cancelled.

However, even if it is assumed for the time being that the persons who had initially made complaints had subsequently made false statements then the question would be what were the materials except the allegation against the petitioner on which action of cancellation of licence could have been taken?

In my view, only available material was that shop was not found open on the date when the inspection was done without verification of the registers and stock. Thus, it could not have been ascertained whether the allegations made by the beneficiaries were correct or not. It does not appear from the impugned order that subsequently also registers were examined and the licensing authority came to the conclusion that there were certain irregularities



committed by the petitioner. Only on the basis that subsequent affidavit by the beneficiaries, who had earlier made allegations, should be taken as afterthought to defeat the purpose, would not prove the charges against the petitioner. Even if the petitioner has not been able to show that the charges are incorrect, the licensing authority would be required to indicate as to how the charges made against the petitioner stand substantiated and proved. Nothing appears to have been done.

A Division Bench of this Court in **Turant Lal Paswan Vs. The State of Bihar & ors [2012(3) PLJR 583]** has held that though the action of keeping the shop close on one particular day was in breach of terms and conditions of the licence and may not be justified but it was not such a grave violation that would entail cancellation of licence.

In my view, the order impugned, for the reasons aforesaid, suffers from vice of arbitrariness and has to be quashed.

The appellate authority also did not consider the aforesaid aspect and simply endorsed the views of the licensing authority. It appears that the inquiry team was constituted by the District Magistrate himself and not by the licensing authority and District Magistrate happens to be the appellate authority also.

Accordingly, both the impugned orders contained in



Annexure 3 and 4 are quashed and set aside.

As a result, the licence of the petitioner stands restored and supply should be resumed immediately as being charged for one day of closure, petitioner’s shop has already remained closed for more than two years.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
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