

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.16046 of 2014**

Haridwar Paswan son of late Kaleshwar Paswan, resident of village  
Bhadas Uttari, P.O. Bhadas, P.S. Muffasil, Khagaria, District Khagaria,  
.... .... Petitioner

Versus

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

**Appearance :**

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate  
For the State : Mr. Alok Ranjan, AC to GA 6

**CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN**

**ORAL JUDGMENT**

**Date: 01-09-2016**

Heard learned counsel for the petitioner and the State.

Petitioner is aggrieved by Annexure 1, which is an order  
passed by the licensing authority, by which the PDS licence of the  
petitioner bearing licence No. 48K/2007 has been cancelled.

The sole ground taken by the petitioner is that his licence  
has been cancelled merely on the ground that a First Information  
Report has been lodged under section 7 of the Essential Commodities  
Act(hereinafter to be referred to as “the Act”) and he has become an  
accused and provision of suspension of licence which was available  
under the provisions of the Public Distribution System(Control)

Order, 2001(hereinafter to be referred to as “the Control Order”) was subsequently deleted by making amendment in the year 2011.

The issue is no longer *res integra* as this Court on several occasions have taken a view that the licence cannot be cancelled on such ground as there is no provision for cancellation of licence on merely registering a case under section 7 of the Act.

In my view, there are only two modes of cancellation of the PDS licence provided in the Statute. First is that, according to Clause 7(ii) of the Control Order, if the licensee has violated any term or condition of the licence then a proceeding has to be launched against the licensee and an opportunity should be given to him to answer the charges. In the present case, though show-cause notice has been issued to the petitioner and he has filed his reply but the order of cancellation of his licence is solely and specifically on the ground that F.I.R. has been registered. Show-cause notice (Annexure B to the counter affidavit) also indicates that charge was regarding registration of a police case.

Another provision is under Clause 14 of the Control Order and according to it, if consequently there is an order of conviction against the licensee for contravention of any provision of the Act, the licensing authority can cancel his licence.

A reference in this regard is made to an unreported decision

of this Court dated 02.02.2016 rendered in **C.W.J.C. No. 1898 of 2016( Janardan Ram v. The State of Bihar and others)**. Thus, in my view, the order impugned cannot be sustained in law and, accordingly, the same is quashed and set aside.

However, this order would not come in the way of the licensing authority, if it so desires, in launching a fresh proceeding against the petitioner for violation of any term or condition of the licence granted under the Control Order as required under Clause 7(ii) thereof but in such case reasonable opportunity should be mandatorily granted to him.

Accordingly, this writ application stands allowed.

**(Dr. Ravi Ranjan, J)**

SC/-

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