

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11955 of 2009

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Anil Kumar Chaudhary, son of Sri Rajendra Chaudhary, resident of village, P.O. Anjani, P.S.- Sarai, District- Vaishali at Hajipur (Ex- P.D.S. dealer for Madhopur RamGram Panchayat of Bhagwanpur Block).

.... Petitioner

Versus

1. The State of Bihar through its Chief Secretary, Government of Bihar, Old Secretariat, Patna-1
2. The Collector-cum-Appellate Authority, Vaishali at Hajipur
3. The District Magistrate-cum-Chairman, District Level P.D.S. Dealer's Selection Committee, Vaishali at Hajipur
4. The sub-Divisional Officer, Hajipur, District- Vaishali at Hajipur
5. The Block Supply Officer, Bhagwanpur Block, District- Vaishali at Hajipur

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate
For State : None

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 19-04-2016

Heard learned counsel for the petitioner. No one appears on behalf of the State.

Petitioner was served with a show cause notice dated 16.04.2008 directing him to explain as to why on charges levelled in the notice his licence granted for running a PDS shop should not be suspended and, thereafter, cancelled. Vide Annexure 4 dated 26.05.2008 his licence no.16/07 was suspended and he was again



directed to explain as to why his licence should not be cancelled for irregularities committed by him. Lastly, vide order dated 25.07.2008 as contained in Annexure 9, the petitioner's licence has been cancelled. The order of cancellation was assailed before the appellate authority by filing Miscellaneous Case No.35/08-09 which was dismissed vide Annexure 10 dated 01.06.2009 vide by the Collector, Vaishali. Hence this writ application has been filed by the petitioner.

Sole ground raised on behalf of the petitioner is that once the licence of the petitioner was suspended vide Annexure 4 dated 26.05.2008, the subsequent cancellation of licence on self-same charges vide Annexure 9 was without jurisdiction. He has placed reliance upon a decision of the Division Bench rendered in **Shiv Chandra Jha Vs. Harideo Jha [2013(3) PLJR 956]**. It has been held that suspension and cancellation are two different modes of penalties provided under Public Distribution System (Control) Order, 2001/Bihar Fair Price Shops Order, 2007 as Clause 7(ii) of such statute provides that the Licensing Authority shall suspend/cancel the licence if certain irregularities committed by the licensee.

Let it be noted that the order of suspension having been passed in the year 2008 itself has also lost its efficacy as the same has outlived its life.

In view of the aforesaid decision of the Division Bench

it has to be held that the order of cancellation is bad and without jurisdiction. Accordingly, the impugned orders as contained in Annexure 9 and Annexure 10 are quashed and set aside.

This writ application stands allowed.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

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