

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1247 of 2016

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Jai Prakash Sah, Son of Late Kali Sah, Resident of Village- Basanwara, P.S.- Alam Nagar, District- Madhepura.

.... Petitioner

Versus

1. The State of Bihar through the Secretary Food and Civil Supply Department, Government of Bihar, Patna.
2. That Secretary Food and Civil Supply Department, Government of Bihar, Patna.
3. The District Magistrate, Madhepura.
4. The Sub- Divisional Officer, Udakishunganj, District- Madhepura.
5. The District Supply Officer, Madhepura.
6. The Block Supply Officer, cum-Marketing Officer, Alam Nagar, Block+P.S. Alam Nagar, District- Madhepura.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Nand Kishore Singh, Mr. Alok Kumar Singh, Advocate
For the State	:	Mr. S.k. Sinha- GP 15

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-07-2016

Heard parties.

Petitioner seeks quashing of the order dated 23.07.2015 (Annexure 7) passed by the Sub Divisional Officer-cum-Licensing Authority, Udakishunganj, District, Madhepura by which his licence No. 218 / 2008 granted for running a PDS shop has been cancelled.

It is submitted on behalf of the petitioner that an F.I.R. was lodged against the petitioner under Section 7 of the Essential Commodities Act, 1955 in which there was seizure of tractor concerned along with food grains.

However, sole ground for challenge is that cancellation is only on the ground of registration of F.I.R. against the petitioner and for the reason that he was arrested.

This issue is no longer *res integra* as this Court, in its earlier decision, rendered on 27.04.2016 in C.W.J.C. No.1115 of 2016, has taken a view that there are only two provisions of cancellation of licence under the Public Distribution System (Control) Order, 2001. First provision is under Clause 7(ii) in which, after issuance of notice describing the charges against the petitioner and after granting him reasonable time to answer the allegation and considering the reply, a decision of cancellation of licence can be taken. Second provision is under Clause 14 which lays down that if the licensee is convicted by a court of law for the contravention of any order made under Section 3 of the Essential Commodities Act, 1955 then the licensing authority would be required to cancel his licence. There is no provision for cancellation merely on the basis of registration of F.I.R. Therefore, in my view, serious error of jurisdiction has been committed by the authorities concerned cancelling his licence on such ground. At best, since the petitioner was taken in custody, his unit could have been attached with some other unit for the time being as the petitioner was not able to run the same. However, now the petitioner claims that he has been released

on bail on 20.08.2015.

Accordingly, the writ petition stands allowed. The impugned order as contained in Annexure 7 is quashed and set aside. However, the licence of the petitioner is directed to be restored immediately.

However, this order would not come in the way of the authority concerned for initiation of a fresh proceeding under Clause 7(ii) if they so desire or under Clause 14 of the aforesaid Act, if such situation arises and if it so desires.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.08.2016
Transmission Date	NA