

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1115 of 2016

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Lakshmi Narayan Sahani, Son of Sri Mahendra Sahani, Resident of Harpur Vindi,
P.S. Tajpur, District - Samastipur.

.... Petitioner

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Darbhanga.
3. The Collector, Samastipur.
4. The Sub-Divisional Officer, Samastipur.
5. The Block Supply Officer, Morwa, Samastipur.

.... Respondents

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Appearance :

For the Petitioner : Mr. N. K. Agarwal, Advocate
 : Mr. D. N Tiwari, Advocate
For the State : Mr. Santosh Kumar, AC to GP-9

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 27-04-2016

Heard parties.

Vide Annexure-3 dated 11.07.2012, in view of procedure laid down under Clause 7(iii) of the Public Distribution System (Control) Order, 2001 as well as its amendment i.e. Public Distribution System (Control) Order, 2011 especially Clause 8 thereof, petitioner's licence no. 195/2007 was cancelled on the ground that a police case has been registered against him under Section 7 of Essential Commodities Act. Petitioner's appeal and revision filed against the order have also been dismissed which has been appended as Annexures 2 and 1 respectively.



Originally, under Clause 7(iii) of the Public Distribution System (Control) Order, 2001, there was a provision for suspending the licence on the basis of FIR being registered against the licensee under the provisions of Section 7 of E.C. Act. Such suspension continued till the finalization of the police case. However, subsequently, vide Clause 8 of the amendment brought by Public Distribution System (Control) Order, 2011, Clause 7(iii) of the Public Distribution System (Control) Order, 2001 stood deleted w.e.f. 23.06.2011. However, there was no provision for cancellation of licence on such ground even under the provision contained in Clause 7(iii) which was existing originally as power was only to suspend the licence. Now, even such provision of suspension on the aforesaid ground also stands omitted.

The only provision for cancellation of licence is under Clause 7(ii) which lays down that if the licensee contravenes any term and condition of the licence or the statutory provisions etc., then, after granting reasonable opportunity, a decision for cancellation of licence can be taken. However, in the case in hand, it does not appear that any show cause notice was issued under Clause 7(ii) and cancellation is merely on the ground that FIR has been registered against the petitioner under Section 7 of E.C. Act.

In my view, a serious error of jurisdiction has been committed by the licensing authority in passing such order, as he is not empowered to take such decision of cancellation of licence on the aforesaid ground.

Accordingly, this writ application succeeds. The orders impugned as contained in Annexures 1, 2 and 3 are quashed and set aside. It goes without saying that the supplies to the petitioner has to be resumed immediately.

(Dr. Ravi Ranjan, J.)

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