

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2556 of 2014

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Anirudh Singh Son Of Janardan Singh Resident Of Village- Rajanpur, Police
Station- Mahesi, District- Saharsa

.... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Saharsa
3. The Sub-Divisional Officer, Saharsa Sadar, District- Saharsa
4. Block Supply Officer, Block- Mahesi, District- Saharsa
5. District Supply Officer, District- Saharsa

.... Respondents

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Appearance :

For the Petitioner : Mr. Sajid Salim Khan, Advocate
For the State : Mr. GP31- B. SINGH

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 19-07-2016

Heard learned counsel for the petitioner and the
State.

Petitioner seeks quashing of the order dated
19.8.2013 passed by the Sub Divisional Officer – cum licensing
authority, Sadar, Saharsa, as contained in Annexure 2, by which his
PDS licence no. 387/2007 has been cancelled.

It is contended that his licence was earlier cancelled
vide Annexure 1, which is order dated 4.5.2011 issued by the Sub
Divisional Officer – cum – licensing authority, Sadar, Saharsa but on
the basis of a decision taken by the District Level Selection
Committee. Aforesaid order was put to challenge in C.W.J.C. No.



2816/2012 which was disposed of vide Annexure 7 dated 13.8.2012 passed by Single Judge Bench of this Court directing the petitioner to once appear before the Sub Divisional Officer, Saharsa, who would be required to pass an appropriate order in the light of the cause shown by the petitioner as also report received from the Block Supply Officer dealing with the allegation levelled against the petitioner. Upon that the impugned order contained in Annexure 2 has been passed.

Sole ground taken for challenging the impugned order is that admittedly on the self same ground the petitioner's licence was suspended and, thereafter, show cause notice was issued against him on the basis of which the present order of cancellation has been passed.

It is contended that suspension and punishment are two exclusive modes of punishment and if one mode of punishment is imposed then upon self same allegation second punishment would be without jurisdiction as it is well settled principle that a person cannot be vexed twice for same offence. In support of aforesaid submission learned counsel placed reliance upon a decision of Division Bench of this Court rendered in **Shiv Chandra Jha Vrs. Harideo Jha & ors. [2013(3) PLJR 956]**. Though a copy of the order of suspension has not been appended. However, learned



counsel has stated in paragraph 6 of the writ application that licence was suspended on 21.8.2009 even without issuing show cause notice. It is also stated that from perusal of the impugned order it would appear that, upon the allegations made against the petitioner, his licence was suspended and, thereafter, show cause notice was issued and on self same grounds the licence was cancelled also. However, a copy of the order of suspension has been produced at the time of hearing by the learned counsel for the petitioner. Aforesaid assertion made by the petitioner in paragraph 6 has not been controverted by the respondents in the counter affidavit filed by the respondent nos. 2 to 5. However, a ground has been taken that the petitioner has approached this Court without availing the statutory remedy of appeal and on this ground alone this application should be dismissed.

On appreciation of rival contentions, I find force in the submission raised on behalf of petitioner. It is apparent from the impugned order itself that on the ground of certain irregularities, even without issuing show cause notice, the licence of the petitioner was suspended, thereafter, show cause notice was issued and, thereafter, order of cancellation has admittedly been passed.

In my view, in the case in hand, the action of authority by cancelling the licence of the petitioner is in teeth of the law laid down by a Division Bench of this Court **Shiv Chandra Jha**

(supra). Accordingly, the order of cancellation is quashed and set aside. So far the order of suspension is concerned that would also be of no relevance as now it has already outlived its life as suspension of licence can only be for a maximum period of ninety days. So far the first order is concerned, though the learned Single Judge of this Court did not quash the order vide Annexure 7 in express term, there is deemed quashing of the aforesaid order as the Sub Divisional Officer was directed to pass a fresh order after consideration of the reply to the show cause notice filed by the petitioner. Otherwise also, the order contained in Annexure 1 dated 4.5.2011, being a non speaking order based on the order passed by the District Level Selection Committee which of course has power to recommend for issuance of the licence, however, it does not have any statutory power to deal with the matter of cancellation of the licence. Accordingly, that order is also a nullity.

Accordingly this writ application stands allowed and the licence of the petitioner is directed to be restored with immediate effect.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	15.08.2016
Transmission Date	NA