

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2480 of 2016

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Rudra Narayan Choudhary S/o Late Ras Mohan Choudhary, resident of village-
Belahi, P.S.- Bihariganj, District- Madhepura

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Consumer Protection
Department, Bihar, Patna
2. The Collector, Madhepura
3. The Sub-Divisional Officer, Udakisanganj, Madhepura
4. The Block Supply Inspector, Bihariganj, Madhepura

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Dhananjaya Nath Tiwari, Advocate
For the State	:	Mr. Dr. A.K. Upadhyaya- SC20 and Mr. Naresh Prasad, AC to SC 20

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-07-2016

Heard learned counsel for the petitioner and the State.

Petitioner is aggrieved by Annexure 1 which is an order dated 26.11.2016 passed by Sub Divisional Officer –cum – licensing authority, Udakisanganj by which his PDS licence no. 169 of 2007 has been cancelled on the ground that a First Information Report has been lodged against him under Section 7 of the Essential Commodities Act, 1955.

It is contended that the order is without jurisdiction and there is no provision for cancellation of licence under the PDS Control Order, 2001 on the aforesaid ground.



I find force in the submission raised on behalf of the petitioner. There are two provisions for cancellation of licence under the PDS Control Order, 2001 which were there in the statute at the relevant point of time. First is Clause 7(ii) of the Control Order which envisages that if any licensee contravenes any provision or any terms and conditions of license or any of his duties and responsibilities or any order of State Government then without prejudice to any other action that may be taken against him under the Essential Commodities Act, 1955 his license may be cancelled by the Licensing Authority by passing a written order after granting reasonable opportunity to the licensee. Second provision for cancellation of licence is under Clause 14 of the Control Order, i.e., in case there is conviction of the licensee for contravention of any order made under Section 3 of the Essential Commodities Act, 1955 then the licensing authority would be required to cancel the licence of the licensee by a written order having been passed in this regard.

In my considered opinion there is no provision in the statute for cancellation of licence once a first information report lodged against the licensee. Thus, this Court has no hesitation in holding that the licensing authority has committed serious error of jurisdiction in passing the order impugned.

Accordingly, the impugned order is quashed and set

aside. License of the petitioner stands restored.

However, the authority concerned, if it so desires, would be at liberty to initiate a fresh proceeding for the irregularities committed by the petitioner, if any , in accordance with law.

(Dr. Ravi Ranjan, J)

Spd/-

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