

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 5242 of 2016

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Ram Swarath Yadav, Son of late Dular Chandra Yadav, Resident of
Village- Kabariya; P.S. Darbhanga Sadar, District Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Food and Civil Supply Department,
Government of Bihar, Patna.
3. The District Magistrate Darbhanga, District Darbhanga.
4. The Sub-Divisional Officer Darbhanga sadar, District Darbhanga.
5. The District Supply Officer, District Darbhanga.
6. The Sub-Divisional Supply Officer Sadar Darbhanga District
Darbhanga.
7. The Block Supply Officer Sadar Darbhanga District Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Saroj Kumar, Adv.

For the Respondents: Mr. Sunil Kumar Mandal, Adv.

: Mrs. Smt. Neelam Kumari, AC to SC-3.

: Mr. Bipin Kumar, AC to SC-3.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 17-11-2016

Heard learned for the petitioner and the State.

Petitioner seeks quashing of order dated 17.12.2009,
as contained in Annexure-4, passed by the Licensing Authority-
cum-Sub-divisional Officer, Sadar Darbhanga as also the
appellate order dated 29.11.2013, as contained in Annexure-10,
passed by the District Magistrate, Darbhanga in PDS Case No.
79/09-10 whereby the aforesaid authority being the Appellate



Authority has dismissed the appeal and upheld the order passed by the Licensing Authority.

Two grounds have been raised on behalf of the petitioner. First is that once a punishment of suspension of licence was granted vide Anneuxre-3 dated 12.07.2008, subsequent punishment of cancellation of licence on the self same charges would be without jurisdiction. Secondly, the order has been passed in view of the fact that the District Level Selection Committee has refused to revoke suspension and, therefore, the Licensing Authority was compelled to cancel the licence.

In my view, this writ petition would succeed on both grounds. A Division Bench of this Court in the case of **Shiv Chandra Jha vs. Harideo Jha [2013(3) PLJR 956]** has held that once the decision of punishment of suspension is chosen by the Licensing Authority, the second punishment on self same charges of cancellation of licence would be without jurisdiction. That apart, Clause 7(ii) of the Public Distribution System (Control) Order, 2001, which is the guiding statute for suspension or cancellation, nowhere indicates that the District Level Selection Committee has any role to play in imposing suspension or cancellation of licence. Thus, the order impugned,



as contained in Annexure-4, since suffers from aforesaid two vices, the same has to be held as unsustainable in law. The Appellate Authority has also not considered the aforesaid aspects of the matter and has simply endorsed the view of the Licensing Authority.

Accordingly, this writ petition succeeds. Both the orders, as contained in Annexure-4 and Annexure-10 are set aside.

The order of suspension dated 12.07.2008 vide Annexure -3 has also outlived its life, therefore, the petitioner's licence would stand revived forthwith and he would be entitled for immediate resumption of supplies.

Accordingly, this writ petition stands allowed.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.01.2017
Transmission Date	NA

