

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9573 of 2015

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Yogendra Paswan, s/o Asharfi Paswan, resident of Village-Isha Chhapra,
Panchayat Raj Halimpur, PS+Block-Sahebgang, District- Muzaffarpur.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The Principal Secretary Department of Food and Civil Supplies, Government of Bihar, Patna.
3. The District Magistrate, Muzaffarpur
4. The Sub-Divisional Officer-cum- Licensing Authority, West Muzaffarpur, District-Muzaffarpur
5. The Block Development Officer, Sahebgang, District- Muzaffarpur.
6. The Block Supply Officer, Sahebganj, District-Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rakesh Ranjan, Advocate

For the Respondent/s : Mr. Sanjay Kr. Singh, AC to AAG-12

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

2 12-01-2016 Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of order dated 21.01.2012 passed by the Licensing Authority-cum-Sub Divisional Officer, West Muzaffarpur, as contained in Annexure 6, by which, his licence no. 23010051/08 has been cancelled.

Admittedly, the petitioner's licence, at the first instance, was suspended on 06.01.2011 (Annexure 4) and, at the same time, petitioner was directed to show-cause as to why the licence should not be cancelled.

Thereafter, the petitioner furnished his reply to the show-cause notice but the District Level Selection Committee on

12.11.2011 has held that since the irregularities committed by the petitioner are grave, therefore, the suspension is not fit to be revoked. Subsequent thereof, the impugned order has been passed on the ground that such decision having been taken by the District Level Selection Committee, there is no other option open to the Licensing Authority than to cancel the licence.

In my view, the order impugned suffers from several fatal errors. First and the foremost being that once a decision to suspend the licence was taken by the Licensing Authority, it was not open for it to again penalize the petitioner on self same charges by cancelling his licence. In this regard, a reference is made to a decision of the Division Bench rendered in Shiv Chander Jha v. Harideo Jha and others, 2013 (2) B.L.J. P.H.C. 80.

Secondly, the provisions, as contained in Clause 7(V) which was in operation prior to the amendment brought in the year 2011, disclosed in clear terms that the period of suspension would be of 90 days only. Therefore, there was no occasion even for considering the revocation of suspension after 90 days as revocation after lapse of 90 days was automatic. It is pertinent to mention here that by amendment brought in the Control Order which was made effective from the month of June, 2011, the provision of suspension itself has been deleted.

Lastly, in my view, the District Level Selection Committee was not empowered and authorized to consider either the issue of revocation of suspension of licence or its cancellation as the sole authority in terms of Clause 7(II) would be the licensing authority which was required to consider the matter of suspension or cancellation of licence only after considering the reply furnished by the licensee in response to a show-cause notice issued by him. Thus, in my view, since the order impugned suffers from the aforesaid lacunae, the same cannot be sustained and as such, is quashed and set aside.

Accordingly, this writ application stands allowed.

(Dr. Ravi Ranjan, J.)

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