

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16174 of 2014

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Rajdeo Singh Son of Late Chandradeep Singh, Resident of Village- Aktiyarpur,
P.O.- Shahjahanpur, P.S.- Nagarnausa, District- Nawada

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariate, Patna,
2. The District Magistrate, Nalanda, District-Nalanda &
3. The Sub-Divisional Officer, Hilsa, District-Nalanda.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh
For the Respondent : Mr. P.K. VERMA

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 01-09-2016

Heard learned counsel for the petitioner and the State.

Petitioner is aggrieved by the order dated 12.09.2006 passed by the Sub-Divisional Officer, Hilsa passed in Supply Case No.16 of 1990 as contained in Annexure-1, by which his PDS licence bearing No.16 of 1990 has been cancelled. He also assails the appellate order dated 24.06.2014 passed by the Collector-cum-District Magistrate, Nalanda in Supply Case No.68 of 2006 by which the appeal has been dismissed and the order passed by the licensing authority has been upheld.

Sole point taken by the petitioner is that once the PDS licence was suspended in view of certain charges levelled against the petitioner vide Annexure-5 dated 07.01.2006 and the same could not have been cancelled on the same charges.



Admittedly, notices were issued against the petitioner vide Annexures-2 and 4 levelling certain charges upon him and asking him to show cause as to why his licence should not be suspended. Thereafter, vide Annexure-5, the licence of the petitioner was suspended but again notice was issued under the same order to show cause why the licence should not be cancelled.

Order impugned having been passed on 12.9.2006, proceeding would be under Bihar Trade Articles (Licences Unification) Order, 1984. According to Clause 11 (i) the suspension is by way of punishment and, as per clause 11(ii), the provision of suspension is in a proceeding for cancellation of licence but that cannot continue more than a period of 90 days.

In the case in hand, it is apparent that notices for suspension of licence were issued vide Annexure 2 and 4. The notices do not disclose that order of suspension has been passed in contemplation of a proceeding for cancellation of the licence, therefore, it has to be held that such notices were issued for the purpose of imposing a penalty of suspension in terms of clause 11(i) of the Bihar Trade Articles (Licences Unification) Order, 1984 (hereinafter to be referred to as “the Unification Order”). Eventually order of suspension was passed on 7.9.2006. Once, it is held that suspension was under clause 11(i) it has to be held that once a



punishment of suspension was imposed upon the licensee, for the same set of charges, a notice could not have been issued for the purpose of cancellation as the same would be in contravention of the well established principle that a person cannot be vexed twice for same set of charges. A reference in this regard is made to a decision rendered by a Division Bench of this Court in **Shiv Chandra Jha v. Harideo Jha [2013(3)PLJR 956]** which has considered the subsequent Control Order, i.e., PDS (Control) Order 2001. The Division Bench had considered the earlier provision of Clause 11 of the Unification Order 1984 also and has held that power to suspend or cancel the licence for contravention of the terms of licence under the 2007 order is akin to the one under clause 11 of the Unification Order and further that, once the authority has decided to suspend the licence by way of punishment, it cannot proceed further to cancel the licence on same set of charges.

Accordingly, this writ application is allowed impugned order as contained in Annexures-1 and 11 are quashed and set aside.

So far as suspension of licence is concerned, the decision was taken in the year 2006 itself and the same has remained operational for about ten years and in the meantime Control Order, namely, PDS (Control) Order 2001 has also come into existence in

which subsequently the mode of punishment of suspension of licence has been deleted by bringing amendment.

In view of the orders passed by the licensing authority and the appellate authority the petitioner has already suffered much and the suspension of the licence cannot be allowed to continue for all times to come otherwise there would be no difference at all between the suspension of licence and cancellation of licence. Thus, the PDS licence of the petitioner is restored.

(Dr. Ravi Ranjan, J)

B.Kr./-

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