

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17738 of 2014

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Umesh Yadav Son of Late Chulahi Yadav resident of Madhopur, P.S. - Simari,
Distt. - Darbhanga.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food Consumer and Protection Department, Bihar, Patna.
2. The Collector, Darbhanga.
3. The Sub Divisional Officer, Sadar, Darbhanga.
4. The Block Supply Officer, Singhwara, Darbhanga.

.... Respondents

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Appearance :

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For the Petitioner : Mr. Rajeev Kumar Labh, Advocate

For the State : Mr. Shashi Sekhar Pd. Sinha, AC to GA 6

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 24-11-2016

Heard Parties.

The petitioner challenges the order dated 12.7.2013 passed in Case No. 05/2013 by the Sub Divisional Officer – cum – licensing authority, Darbhanga (Annexure 1), by which his licence No. 72/2007 has been cancelled, as well as the appellate order dated 31.7.2014 passed by the Collector – cum – District Magistrate, Darbhanga in Miscellaneous Case No. 141 of 2013, (Annexure 2) by which he has upheld the order passed by the licensing authority and dismissed the appeal.

Petitioner assails the orders impugned on diverse grounds. It is contended that no proceeding for initiation of licence



of PDS dealer should have been initiated on the complaint made by a political activist. It is next contended that the Deputy Director, Food, Darbhanga Division was not authorized to get an inquiry held by the Marketing Officer of a PDS Shop as the same could only be done by the licensing authority as per Clause 3 of the PDS Control Order, 2001. Lastly, it is submitted that a copy of the inquiry report, which has been conducted by a team constituted by the licensing authority and was done on 26.4.2013, was never served upon the petitioner before taking any action for cancellation of licence. Specific statement in this regard has been made in paragraph nos. 5 and 6 of the writ petition.

The petitioner places reliance upon a decision of a Single Judge Bench of this court rendered in **C.W.J.C. No. 15152 of 2014 (Pahari Sah versus The State of Bihar & ors.)** and other **analogous matters**, a copy of which has been appended as Annexure 5 series, as well as a decision of **C.W.J.C. No. 489 of 2014 (Santosh Kumar Ram Vs. The State of Bihar)**.

So far the aforesaid issues are concerned the same have already having been considered and decided in **Santosh Kumar Ram (supra)** as well as decisions contained in Annexure 5. This Court is also in agreement with the views taken by the learned Single Judge in both the cases and it is held that :

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- a. no enquiry can be initiated on a complaint of a political activist especially when he is not a consumer with the petitioner(s);
 - b. the Deputy Director has no jurisdiction under 'the Control Order' to either hold enquiry or to seek any show cause from the petitioner(s);
 - c. the show cause notice has been mechanically issued by the Licensing Authority and is absolutely vague with no specific details;
 - d. the illegality is perpetuated in the order of cancellation which entirely rests upon the enquiry conducted by a body who has no jurisdiction under 'the Control Order' to carry out any such enquiry.
 - e. It is further held that it is the licensing authority upon him alone the jurisdiction has been conferred with certain rights, duties and responsibility with respect to cancellation of licence and such jurisdiction cannot be delegated to any other authority and at the same time he has also to apply his own mind and not proceed under the dictate of any superior authority.

As a result this writ application stands allowed. The impugned orders contained in Annexure 1 and 2 are quashed and set aside being unsustainable in eye of law. The licence of the petitioner stands restored and he is entitled for immediate resumption of

supplies.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.11.2016
Transmission Date	NA