

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11784 of 2016

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Deoki Mandal, Son of Late Chhanguri Mandal, resident of village Khajuri
Panchayat Ramdua, P.S. and Block- Shambhuganj ,District-Banka

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer
Protection Department, Government of Bihar, Patna
2. The Collector, Banka
3. The District Supply Officer, Banka
4. The Sub- Divisional Officer- Banka

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Ram Bilas Mahto, Mr. Manoj Kumar Singh, Advocates
For the State	:	Mr. N.H. Khan- SC 1, Ms. Babita Kumari, A.C. to S.C. 1

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 01-12-2016

Heard parties.

Petitioner's grievance is that, after he was convicted in Sessions Trial No.721 of 2002/Tr. No.459 of 2015 under Section 302 and other Sections of I.P.C., allocation of his shop was tagged to some other PDS dealer as he was taken in custody. However, subsequently, petitioner filed criminal appeal in which he has been granted bail but the Licensing Authority, vide impugned order as contained in Annexure 4, has cancelled his licence on the ground of his conviction.



It is contended that there is no provision of cancellation of licence on conviction of a person under any law save and except in contravention of any order made under Section 3 of the Essential Commodities Act, 1955. Learned counsel refers to Clause 14 of the Public Distribution System (Control) Order, 2001 as well as Section 29 of the Targeted Public Distribution System (Control) Order, 2015. Both the provisions are pari-materia and the same are quoted as under:

“14. Consequences of Conviction- Where a licensee has been convicted by a court of law for the contravention of any order made under section 3 of the Essential Commodities Act, 1955 (Central Act 10 of 1955) the Licensing Authority shall by order in writing cancel his licence.

Provided that where such conviction is set aside in any appeal or revision, the Licensing Authority may, on an application by the dealer whose licence has been cancelled, restore, the licence to such dealer.

“29. Consequences of Conviction

The license of a licensee convicted by a competent court for violation of an order made under section 3 of the Essential Commodities Act, 1955 or for any other offence shall be cancelled by the Licensing Authority by a written order:

Provided that if such a conviction is annulled in appeal or revision, the license shall be restored by the licensing authority, if such a licensee within one month from the date on which such a annulment order is passed makes a written representation to the licensing authority with attaching certified copy of such an order and with payment of license fee equal to a new license fee through treasury challan.”

Accordingly, in my view, the impugned order cannot be sustained in law as there is no provision of cancellation on



account of conviction under Section 302 of the I.P.C. Of course, if a licensee is convicted and sentenced, he would be in jail and would not be able to run the shop. In such a situation, allotment can be tagged to some other shop. However, in the present case, admittedly, the petitioner has been released on bail, therefore, there is no impediment in making supply to his shop till any final decision is taken in the criminal appeal filed by him.

As a result, this writ application succeeds. The impugned order as contained in Annexure 4 is quashed and set aside. The respondents are directed to resume supply to the petitioner till a final decision is taken in Criminal Appeal (DB) No.859 of 2015.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
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