

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2686 of 2014

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Jagdish Mahto @ Jagdish Pd. Mehta Son Of Late Devi Mahto Resident Of Village
Pothiya, Police Station Falka, District Katihar

.... Petitioner

Versus

1. The State Of Bihar
2. District Magistrate, Katihar
3. Sub-Divisional Officer, Katihar
4. District Supply Officer, Katihar
5. District Selection Committee, Katihar
6. Block Supply Officer, Falka, Katihar

.... Respondents

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Appearance :

For the Petitioner	:	M/s Bipin Kumar and Md. Abu Haider, Advocates
For the State	:	M/s Birju Prasad G.P. 13 and Ravi Kumar, AC to G.P. 13

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 06-12-2016

Heard parties.

Petitioner seeks quashing of the order dated 25.3.2009 passed by the Sub Divisional Officer – cum – licensing authority, Katihar (Supply Branch) by which his licence no. 75/1985 has been cancelled. He also assails the appellate order contained in Annexure 1 dated 15.12.2011 passed by the District Magistrate, Katihar by which the appeal has been dismissed and the order passed by the licensing authority has been upheld.

Chiefly two grounds have been raised by the petitioner.

First is that once the licence of the vendor was suspended how on



the self same ground the same could have been cancelled by the authority. Secondly, it is submitted that the licence appear to have been cancelled on the basis of the recommendation of the District Selection Committee which is not a forum for the said purpose.

Learned counsel for the petitioner refers to the Clause 2 of the P.D.S. (Control) Order, 2001 to impress upon this Court that the District Level Selection Committee has been constituted only for the purpose of making a recommendation regarding issuance of licence. So far cancellation of licence is concerned the relevant provision is under Clause 7 which clearly lays down that under Clause 7(2) and earlier Clause 7(3), which subsequently stood omitted by Notif. No. Pra. 04/vi-02-04/2001-5738 dated 23.6.11, only the licensing authority is empowered to pass order either for suspension or cancellation. Being statutory authority it does not have to borrow opinion or recommendation of the District Level Selection Committee which has been constituted for entirely a different purpose.

I find force in the submissions raised on behalf of petitioner. The District Level Selection Committee constituted for the purpose of making recommendation regarding grant of licence does not have any power to consider and make recommendation either for suspension or cancellation of licence. The licensing authority has



erred on following the recommendations / approval of the District Level Selection Committee for cancellation of licence. That apart, order of cancellation after suspension of licence on the self same charges would also be without jurisdiction.

Accordingly, the orders impugned contained in Annexure 1 and 2 are quashed and set aside.

As a result, the licensing authority is directed to restore the licence of the petitioner.

This writ application stands allowed.

(Dr. Ravi Ranjan, J)

Spd/-

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