

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15926 of 2014

Abdul Razzak, Son of Lae Abdul Ghafoor, resident of village Parsahi, P.S. Kumar Khand, P.O. Bhato Bazar, District Madhepura

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Bihar, Patna.
2. The Commissioner, Koshi Division, Saharsa
3. The District Magistrate, Saharsa
4. The Sub Divisional Officer, Sadar, Saharsa
5. The Block Supply Officer, Kahra, Saharsa

.... Respondents

Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Advocate
For the State : Mr. Shiv Kumar, AC to G.A.3

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 25-10-2016

Heard learned counsel for the petitioner and the State.

The petitioner is aggrieved by the order dated 13.04.2010, as contained in Annexure-1, by which his PDS licence has been cancelled as well as the appellate order dated 10.12.2013, as contained in Annexure-2, by which his appeal has also been dismissed.

Sole ground raised by the petitioner is that once his PDS licence was suspended vide Annexure 5, dated 2nd February, 2010, further notice for cancellation of licence and ultimately cancellation of licence vide Annexure 1, dated 13.04.2010 was without jurisdiction and the appellate order upholding such decision dated 10.12.2013, as contained in Annexure 2, would also be erroneous.

This Court finds force in the aforesaid submission. Annexure 5 clearly indicates that the petitioner's licence was suspended and, by the said document itself, a show cause notice was issued as to why his licence should not be cancelled.

The issue is no longer *res intera* having already set at rest by a Division Bench of this Court rendered in ***Shiv Chandra Jha Vs. Harideo Jha [2013 (3) PLJR 956]*** holding that once the authority has decided to suspend the licence by way of punishment, it cannot proceed to cancel the licence as no one can be punished twice for the same act of misconduct or offence.

The order of suspension having been passed in the year 2010 itself and subsequently, vide amendment brought in the PDS Control Order on 23rd June, 2011, the provision of suspension has also been completely deleted. In the earlier provision also the period of suspension was only for 90 days unless the suspension was in lieu of any first information report lodged under Section 7 of the E.C. Act.

Accordingly, this writ application stands allowed. The impugned orders, as contained in Annexure 1 and 2 are quashed and set aside.

Since the order of suspension having been passed in the year 2010 itself also has outlived its life, the petitioner would be

entitled for resumption of supplies immediately.

(Dr. Ravi Ranjan, J)

Spd/-

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