

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1179 of 2016

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Shiv Shankar Maharaj, son of Shri Ramjee Maharaj, resident of village-
Chakdumaria P.O. Pipra Khurd, P.S.- Supaul, District- Supaul

.... Petitioner

Versus

1. The State of Bihar
2. The Collector, Supaul
3. The Sub Divisional Officer, Sub-Division Supply Office, Supaul
4. The District Supply Officer, District Supply Office, Supaul
5. The Divisional Supply Officer, Divisional Supply Office, Supaul
6. The Block Supply Officer, Supaul

.... Respondents

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Appearance :

For the Petitioner : Mr. Tara Nath Jha, Advocate

For the State : Mr. Ravindra Kumar, AC to AAG 10

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 04-05-2016

Heard parties.

Petitioner seeks quashing of the order dated 16.09.2009 passed by the Sub Divisional Officer-cum- licensing authority, Supaul by which his P.D.S. licence no. 216/07 was cancelled. He also assails the appellate order dated 27.12.2011 as contained in Annexure-15 by which his appeal has been dismissed and the order passed by the licensing authority has been affirmed.

Challenge to the impugned order is on sole ground that the petitioner's licence already having been suspended vide Annexure-13, which is an order dated 10.12.2008 passed by the Sub Divisional officer, Supaul, another punishment by cancelling licence

of the petitioner was without jurisdiction.

Petitioner was served with a notice on 12.11.2008 (Annexure 10) from which it appears that, in view of the certain irregularities committed by him, he was directed to show cause but it does not appear from the notice that it was either for suspension of or cancellation of licence as none of them stood mentioned in the notice. The petitioner filed his reply, however, being dissatisfied with it, again show cause notice on 04.12.2008/08.12.2008 (Annexure 12) was issued directing the petitioner to submit a fresh reply explaining as to why his licence should not be suspended and thereafter cancelled. Vide Annexure 13, which is an order dated 10.12.2008 passed by the licensing authority, the petitioner's licence was suspended and by impugned order dated 16.09.2009 (Annexure-14), his licence has been cancelled.

The issue is no longer *res integra* as the same has already been set at rest by the Division Bench of this court in **2013(3) PLJR 956 Shiv Chandra Jha v. Harideo Jha** holding that there is no provision under the P.D.S. Control Order, 2001 for suspension of licence in a proceeding for cancellation of the same. It has been held that suspension and cancellation are two separate mode of imposition of punishment and thus one having been imposed by suspending the licence, for the self same charges, another punishment of cancellation

cannot be inflicted as it is well settled that a person cannot be vexed twice for the same offence. This court also in **2016 (1) PLJR 476 Chatritra Paswan v. State of Bihar** has held that second punishment of cancellation would be without jurisdiction.

Accordingly, the impugned order as contained in Annexure-14 is quashed and set aside being without jurisdiction and as such, the appellate order also stands quashed.

Since as per the provision of suspension, which was available under Clause 7(iii) of P.D.S. Control Order, 2007 though later on having been deleted by amendment brought in the year 2011, the suspension could have continued till 90 days only, now the supply to the P.D.S. shop of the petitioner is fit to be resumed immediately.

Accordingly, this writ application stands allowed.

(Dr. Ravi Ranjan, J.)

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