

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16704 of 2015

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Tej Narayan Singh, Son of Late Ramjanam Singh, Resident of Village- Mujauna,
P.S.- Dariyapur, District- Saran.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Civil Supply Department, Old Secretariat, Patna.
2. The Secretary, Food & Civil Supply Department, Old Secretariat, Patna.
3. The Commissioner, Saran Division, Chapra.
4. The District Magistrate, Saran.
5. The Sub-Divisional Officer, Sonpur, District- Saran.
6. The Block Supply Officer, Dariyapur, District- Saran.
7. The Block Supply Officer, Sonpur, District- Saran.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ravindra Kumar Singh
For the State : Smt.Nivedita Nirvikar, GA 10

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 24-02-2016

Heard learned counsel for the petitioner and the
State.

The petitioner is aggrieved by the order dated
12.9.2011, as contained in Annexure 2, by which his licence no.
109/2007 was cancelled with immediate effect. He also
challenges the appellate order as contained in Annexure 4 dated
25.2.2014 by which his appeal has been dismissed and the order
passed by the licensing authority has been upheld as well as the
revisional order dated 26.8.2015 as contained in annexure 1

passed by the Commissioner, Saran Division, Chapra affirming the order passed by the licensing authority.

It is contended on behalf of the petitioner that there is no provision in the statute, namely, Public Distribution System Control Order, 2001 (hereinafter referred to as 'the Control Order') for cancellation of licence on the ground of conviction under other statute except the conviction being under Clause 14 of the Control Order for contravention of any order made under Section 3 of the Essential Commodities Act, 1955. Petitioner places reliance upon a decision of a Division Bench in **Girani Ram vs. The State Of Bihar & Ors [2014 (2) PLJR 117]** in support of his submission. The Division Bench has held that cancellation of licence of the petitioner on the ground of conviction under Sections 325 and 504 of the Indian Penal Code would not be tenable as the offence is independent and not under the provision of Essential Commodities Act.

In the present case the petitioner was convicted in Trial No. 113/1981 on 14.8.1985 for the offence under Section 323 of the Indian Penal Code. He preferred Criminal Appeal No. 206(DB)/1985 before this Court and on 15.12.1997 the conviction was upheld. However, on the basis of period undergone in custody, he was merely found liable to pay a fine of

Rs. 500/- as penalty.

It is contended that in the year 1993 the petitioner was granted retail licence under Bihar Trade Articles (Licenses Unification) Order, 1984 and, thereafter, the enforcement of the Control Order the fresh licence was again granted in the year 2007. It is also contended that, during the pendency of the Cr. Appeal, the licence was granted and the petitioner was allowed to run the P.D.S. shop under agreement. Therefore, now, since the petitioner has already undergone the sentence, there was no occasion for cancelling the licence in the year 2011.

Be that as it may, as the Division Bench has already held that the conviction for any independent offence not under the E.C. Act, cannot lead to cancellation of licence under Clause 14. The stand of the learned counsel for the State is that, in any case of conviction, licence has to be cancelled. Such stand is based upon a circular of 2008. However, the circular not being in consonance of the provision of the statute and in view of the decision of the Division Bench of this Court in **Girani Ram (supra)**, in my view also that cannot be a ground for cancellation of licence.

Accordingly, this writ application succeeds. The impugned orders are quashed and set aside. It is held that the

licence of the petitioner has to be restored and supplies would have to be resumed immediately.

(Dr. Ravi Ranjan, J)

Spd/-

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