

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 3348 of 2016

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Mustafa Khan, Son of Serajul Khan, Residence of Village + P.O.-
Kopa, Police Station- Kopa, District- Saran at Chapra.
Petitioner.

Versus

1. The State of Bihar, through the Secretary, Food and Civil Supply
Department, Government of Bihar, Patna.
 2. The Commissioner, Saran at Chapra.
 3. The District Magistrate, District- Saran at Chapra.
 4. The District Supply-cum-Marketing Officer, District- Saran at
Chapra.
 5. The Sub-Divisional Officer, Sadar- Chapra, District- Saran at
Chapra.
 6. The Circle Officer under Block- Kopa, District- Saran at Chapra.
 7. The Marketing Officer under Block- Kopa, District- Saran at
Chapra. Respondents.
- =====

Appearance :

For the Petitioner : Md. Naseem Mukhtar, Adv.

For the Respondents: Mr. Balram Kapri, Adv.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 24-11-2016

Heard parties.

Petitioner is aggrieved by order dated 03.03.2015
passed by the Sub-divisional Officer, Chapra Sadar, as contained
in Annexure-1, by which the PDS licence of the petitioner has
been cancelled on the ground of registering a case, i.e., Kopa
P.S. Case No. 81 of 2014 under Section 7 of the Essential
Commodities Act, 1955.

Counter affidavit has been filed on behalf of the State,
however, learned counsel has miserably failed to show that there
is any provision of cancellation of licence in case a police case is
lodged under Section 7 of the Essential Commodities Act.

The issue is no longer *res integra* as this Court on



several occasions have held that only provision for cancellation of licence is under clause 7(ii) of the PDS (Control) Order, 2001, under which the licence can be cancelled only after noticing and granting reasonable opportunity to the licensee to explain his case. The second mode of cancellation is under clause 14 thereof which is in consequence of conviction in a case lodged under Section 7 of the Essential Commodities Act.

In my considered opinion, since there is no statutory provision for passing an order of cancellation solely on the basis of regarding a criminal case under Section 7 of the Essential Commodities Act, the order impugned cannot be sustained in law. Accordingly, the impugned order dated 03.03.2015 passed by the Sub-divisional Officer, Sadar Chapra, as contained in Annexure-1 is, hereby, set aside. The licence of the petitioner stands revived.

In the result, this writ petition stands allowed.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
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