

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14772 of 2016

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Ramprit Giri S/o Late Kanchan Giri, Resident of Village Barhan Mathia,
P.O. + P.S.- Siwan Mufassil, District- Siwan.

.... Petitioner

Versus

1. The State of Bihar through The Principal Secretary, Food and Civil Supplies Department Govt. of Bihar, Patna.
2. District Magistrate, District- Siwan.
3. The Sub Divisional Officer, Siwan Sadar, District- Siwan.
4. The District Supply Officer, District- Siwan.
5. Block Development Officer, Prakhand Siwan, District- Siwan.
6. Block Supply Officer, Siwan Block, District- Siwan.

.... Respondents

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Appearance :

For the Petitioner : Mr. Vikas Ratan Bharti, Advocate
For the Respondents : Smt. Namrata Mishra-Ga6

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 07-03-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

In this case petitioner has challenged the Memo no. 886 AA dated 24.10.2014 passed by the Sub Divisional Officer, Siwan Sadar, District-Siwan whereby and whereunder the licence of the petitioner has been cancelled. Against the order of the Sub Divisional Officer, Siwan Sadar, the petitioner moved before the District Magistrate, Siwan, in P.D.S. Appeal no. 58 of 2014, who has also affirmed the order of the Sub Divisional Officer, Siwan Sadar.

The short fact of this case is that petitioner is a P.D.S.



dealer since 1980 vide licence no. 1204 of 2007. He was operating the P.D.S. shop peacefully and successfully to the satisfaction of the customers. On 20.09.2014 a jeep was seized at Mardapur Bazar with food grains loaded over the same and three persons were arrested along with the seizure of the jeep. 18 bags of rice meant for the PDS were recovered, which was intended to be sold in the black-market. The arrested persons have disclosed that the rice was purchased from the petitioner, who is running the PDS shop. After institution of the criminal case, the proceeding was registered as Siwan (M) P.S. Case no. 411 of 2014 under Section 7 of the Essential Commodities Act. Thereafter, the Block Supply Officer inspected the shop on shortage of grains but the shop register was found in order without showing any manipulation in the record. On 26.09.2014 a collective enquiry was conducted and everything was found to be normal. The inspector has also inspected the shop in connection with shortage but it was found to be intact. Inasmuch as the Block Supply Officer has also made inspection on 20.09.2016 and found the shop closed and it was informed that petitioner had gone to Siwan for his treatment. After inspection the Block Supply Officer has submitted the report on 22.09.2014 and on the basis of the report of the Block Supply



Officer a show cause was issued to the dealer to S.D.O. In response to that he has filed his explanation and on receipt of the same in a mechanical manner the S.D.O., Siwan, vide memo no.. 886 dated 24.10.2014 cancelled the PDS licence bearing no. 1204 of 2007. Against that order the petitioner filed an appeal before the appellate authority, i.e., the District Magistrate, Siwan, which was registered as PDS appeal no. 58 of 2014. Thereafter, enquiry was made and after looking into the enquiry report the appeal was dismissed.

The short question raised by the petitioner is that the licence of the petitioner has been cancelled only on account of lodging of the criminal case. Mere lodging of a criminal case ifso facto cannot be a ground for cancellation of licence. The District Magistrate, Appellate Authority, instead of deciding the case on merit has straightway dismissed the appeal, on the ground of pendency of the criminal case holding that it would not be fair to decide the case on merit and has granted liberty to renew his prayer after disposal of the criminal case.

Learned counsel for the petitioner submits that mere lodging a criminal case and its pendency, cannot entail cancellation of the licence, on conviction, automatically, PDS dealership would



get cancelled.

Learned counsel for the State has pointed out that the S.D.O. has not passed the order of cancellation mere filing of the criminal case but he has decided the case on its merit taking into account of the report submitted during inspection and the Collector instead of deciding the case on the basis of materials rejected the appeal merely on account of lodging of criminal case. He has not also disputed the proposition that mere filing of the criminal case cannot become a cause for cancellation of licence under the Government of Bihar, Food, Supply & Commercial Department Public Distribution System (Control) Order 2001 (hereinafter mentioned a 'Control Order 2001'). Clause 7 and Clause 14 of the Control Order 2001 deals with grounds for cancellation of licence and Clause 14 only provides that if a competent court decides the criminal case against the petitioner, only then licence would be cancelled.

Admittedly, in the present case there is no conviction of the petitioner but the Collector has passed the order merely on account of pendency of the criminal case which is not sustainable in the eye of law. In that view of the matter, the order dated 27.05.2016 passed by the District Magistrate cum Collector, Siwan, is set



aside and the matter is remanded back to the Collector, Siwan, who will decide and dispose of the case on its merit instead of deciding the issue on pendency of the criminal case within a period of two months from the date of receipt/production of a copy of this order. The Collector after giving adequate opportunity of hearing to the petitioner, pass the reasoned order in accordance with law.

With the aforesaid observation/direction the writ petition stands disposed of.

(Shivaji Pandey, J)

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