

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12027 of 2014

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1. Bindeshwari Prasad S/o Late Sanjay Prasad resident of village -
Barohiya, P.S. Chanpatia, District - West Champaran at Bettiah
2. Narmdeshwar Dubey S/o Late Daroga Dubey resident of village -
Barohiya, P.S. Chanpatia, District - West Champaran at Bettiah

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary, Department of Food & Consumer Protection,
Govt. of Bihar, Patna
3. The District Magistrate, West Champaran at Bettiah
4. The Sub-Divisional Officer, Bettiah Sadar, West Champaran
5. The Block Supply Officer, Chanpatia, West Champaran
6. The Block Development Officer, Chanpatia, West Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar
Mr. Pawan Kumar Choudhary
Mr. Rajeev Lochan
For the Respondent/s : Mr. Rajeev Shekhar, A.C. to G.A.-13

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 14-09-2017 The petitioners seek to assail the order dated 30.04.2014 contained in Memo No. 01 & 02 whereby the respective licences of the P.D.S. shop of the petitioners have been cancelled with immediate effect for the alleged charges of contravention of provisions of the P.D.S. (Control) Orders, 2001.

Learned counsel for the petitioner submits that the impugned order as against the petitioners in Annexure-9 and 9/1 are wholly misconceived inasmuch as they have not been afforded an adequate opportunity of presenting the case. The said



contention has been made on account of the fact that merely three days notice had been afforded to them to answer the show cause which was issued on 19.04.2014.

It is submitted that nevertheless the petitioners answered the show cause notice which was submitted on 27.04.2014, but the Licensing Authority, without addressing itself to the contention raised in the reply to the show cause notice and also without appreciating the relevant provisions of law, has proceeded to cancel the licences of the petitioners in an altogether arbitrary, irrational and in mechanical manner without appreciating the case of the petitioner.

Learned counsel for the petitioners further submits that the provision of cancellation which is available to the Licensing Authority on lodging of an F.I.R. is only as to when then Licensee is convicted for an offence as envisaged in Bihar Control Orders, 2011. It is submitted that in the earlier Control Orders, there was provision for suspension of the shop licence, but in the 2011 Control Orders, the said order has been withdrawn and only on conviction, licences can be cancelled.

This aspect of the matter has been decided by this Court in the decision reported in 2015(2) P.L.J.R. 246 (Dharamdew Chaudhary Vs. The State of Bihar through the



Secretary, Department of Food and Consumer Protection & Ors.).

It is thus submitted that the impugned orders stand vitiated for the aforesaid reasons and fit to be quashed.

Learned counsel for the State makes a preliminary objection that there is a provision of appeal and revision which ought to have been availed by the petitioners, but before availing the same, the petitioner has come to this Court and as such the petitioners' application is pre-mature and cannot be entertained. Such a contention is only but fit to be rejected as the authorities have clearly violated the provisions of the Order, and a statutory wrong having been occasioned, the petitioners' can well approach this Court under Article 226 of the Constitution of India.

In the result, the writ application is allowed.

The impugned order as contained in Annexure-9 and 9/1 (Memo No. 01 and Memo No. 02, respectively, both dated 30.04.2014) with regard to the petitioners No. 1 and 2 respectively are set aside.

It goes without saying that the said licence shall be restored in favour of the respective P.D.S. dealers. It shall also be open to the concerned P.D.S. dealers, the present petitioners, 4 to approach the authorities for resumption of their supplies to their respective shops.



With the aforementioned directions, the present writ
application is disposed of.

(Anjana Mishra, J)

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