

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4024 of 2014

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1. Bachchu Singh Son Of Sri Bhubneshwar Singh Resident Of Village-
Bhatan Bigha, Post Office- Munjahar, Police Station- Haspura, District-
Aurangabad

.... Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Department Of Food
And Civil Supply, Government Of Bihar, Patna
2. The District Magistrate, Aurangabad
3. The Sub-Divisional Officer, Daudnagar, Aurangabad
4. The Supply Inspector, Haspura (Block), Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Anand, Adv.

For the Respondent/s : Mrs. Anuradha Singh, SC 21

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

4 11-10-2017 Heard learned counsel for the petitioner and

learned counsel for the State.

The petitioner seeks quashing of the order dated
16.07.2012 passed by the SDO, Daudnagar, Aurangabad
whereby and whereunder the petitioner's PDS licence has
been cancelled in Supply Case No. 167/06/2012-13
(Annexure-7). The petitioner further prays for cancellation of
the order dated 17.10.2013 passed in PDS Appeal Case No. 8
of 2013 (Annexure-8).

Learned counsel for the petitioner submits that
earlier in the year 2006, the petitioner's licence was placed
under suspension on 17.07.2006 and his licence was finally



cancelled on 02.12.2006. The provisions of the PDS (Control) Order 2001 (Publication in the extraordinary gazette on 20.02.2007) entail that the licence of the PDS dealer could be suspended for a period of 90 days. Beyond the said period, licence was to revive. It was under such circumstances that the petitioner moved this court as his licence had been cancelled in violation of the respective orders under the Control Orders.

This Court in CWJC 5634 of 2008 vide order dated 11.11.2011 directed the authorities to start a “fresh proceeding” as the order passed is quoted hereunder for ready reference.

“While quashing the orders contained in Annexure 3 and 4, liberty is given to the concerned authorities to start a fresh proceeding for cancellation under the 2001 orders and the notification issued vide GRS I, dated 20.02.2007 relating to suspension and cancellation of the licence”.

It appears that what followed was a continuation of the earlier proceeding and vide Annexure-6, the petitioner was served with the notice which neither contained the memo of the charge nor the enquiry report. Furthermore, the said notice dated 17.12.2011 did not say as to what was the proposed punishment which was sought to be inflicted on the petitioner. However, it appears from the impugned orders that



the same proceeding was revived in the year 2012-13 after the vague nature of notice issued against the petitioner and in pursuance of the said notice, on the advice of the concerned legal advisor in the district, the impugned order has been passed stating that the petitioner has not appeared with the copies of the stock register.

This court fails to realize as to how the petitioner was expected to answer a show cause which contained virtually no allegation and also as to what was the proposed punishment to be inflicted on the petitioner. The authorities have also proceeded to revive the proceedings which had apparently not been considered as legal and valid and a direction issued by this Court earlier to start “fresh proceeding”.

Thus, passing an order in a proceeding which is non existent would not be legal and valid. Neither have the authorities started a new proceeding nor have they given any fresh show cause notice against the proposed punishment. The petitioner’s appeal has also been considered and disposed of on the same premises as had been contested earlier, when the impugned orders were quashed in the earlier writ application. Thus, this court does not find the impugned order dated



16.07.2012 passed in Supply Case No. 167/06/2012-13 and the order dated 17.10.2013, (Annexure-7) passed in PDS Appeal Case No. 8 of 2013 (Annexure-8) to be legal and valid. It is, thus, quashed.

The petitioner is at liberty to move the authorities for restoration of his licence.

(Anjana Mishra, J)

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