

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12099 of 2015

=====

Sunil Kumar Yadav, Son of Late Srinandan Prasad Yadav, Resident of Village-
JAgarnathpur, Post- Nandlalpur, P.S.- Kahalgaun, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector, Bhagalpur, District- Bhagalpur.
3. The Sub-Divisional Officer, Kahalgaun, District- Bhagalpur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Adv.

For the Respondent/s : Mr. Uday Prasad, AC to GP-22

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 19-06-2017

Heard learned counsel for the petitioner and counsel for the State.

In the present case, the petitioner is challenging the action of the licensing authority, the Sub-Divisional Officer, Khalgaun, whereby and whereunder, vide Memo No. 2669 dated 12.10.2012 has cancelled the P.D.S. Licence of the petitioner on the ground that the petitioner has not submitted the Pay-in-Slip for about one year and, thereby, essential commodities could not be distributed to the beneficiaries causing grave inconvenience to the consumers, led to cancellation order passed against him.

The petitioner filed an appeal unsuccessfully, there also, the Collector, Bhagalpur, did not agree with the plea of the petitioner



and, thereby, rejected the claim for revival of the P.D.S. Licence as having found that non-lifting of the grains and other essential commodities is nothing but, violation of Clause 7(i)(b) and (ii).

In this case, the petitioner was running a P.D.S. Shop under a valid licence but, during period 2011-12, he has not deposited the Pay-in-Slip and, thereby, not lifted the grains and other essential commodities for distribution of the same to the consumers. Learned counsel for the petitioner has submitted that during that period, his wife was ill and he was in financial trouble and, as such, he could not deposit the Pay-in-Slip and failed to lift the essential commodities.

The plea of illness of his wife could not be substantiated by the petitioner as he has not produced any supporting document to show the illness of his wife and, on that account, the petitioner could not obtain favourable order from the Licensing Authority cum Sub-Divisional Officer, Kahalgaun. Similar plea was also taken before the Collector, Bhagalpur, who was also not satisfied with the explanation given by the petitioner. Learned counsel for the petitioner has submitted that in fact his wife was ill and, on that account, he failed to lift the grain. In the writ application also, the petitioner has not attached any document to show that the petitioner was busy with the treatment of his wife.

Learned counsel for the petitioner submits that merely



because he has not deposited the Pay-in-Slip and failed to lift the essential commodities cannot lead to cancellation of the licence. In support of his submission, he has also placed reliance on the order dated 8.10.2015 passed in CWJC No. 589 of 2014, wherein, this Court has quoted the letter dated 12.09.2012 issued by the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, thereby instructed all the District Magistrates that the licence should not be cancelled on the ground the licensee has not paid the money for lifting the food grains and, on that account, the licence of the petitioner of that case has been restored.

In the present case, in a similar manner, the petitioner has failed to lift the food-grains and other essential commodities on account of illness of his wife but, there is no document corroborating the illness of his wife. As there is a letter of the Principal Secretary who himself has given direction to the District Magistrates that the licence should not be cancelled on account of non-lifting of the food-grains and restored the licence, in that view of the matter, the order contained in Memo No. 2669 dated 12.10.2012 passed by the S.D.O., Kahalgaon and the order dated 11.5.2015 in Appeal Case No. 36 of 2014-15 are set aside and the petitioner should be given one more chance to run the P.D.S. shop. Accordingly, both the aforesaid orders are set aside and the license of the petitioner is restored but, it is made



clear that if the petitioner repeats the same mistake in failing to lift and distribute the same to the consumers, the authority will be at liberty to take action against the petitioner in accordance with law.

With the aforementioned observation and direction, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.06.2017
Transmission Date	NA

