

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12023 of 2014

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Satyadeo Baitha, S/o Late Rameshwar Baitha, resident of Village - Chaube Tola, 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	:	Mr. Manoj Kumar, Advocate
		Mr. Pawan Kumar Choudhary, Advocate
For the State	:	Mr. Mujtabul Haque, G.P.-12
		Mr. Mritunjay Kumar, A.C. to G.P.-12

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT

Date : 14-09-2017

Heard learned counsel for the petitioner and the learned counsel appearing on behalf of the State.

2. The petitioner is assailing the order dated 30.04.2014, (Annexure 9) contained in Memo No.03, passed by the Licensing Authority, namely, the Sub-Divisional Officer, Bettiah Sadar, by which the petitioner's show cause to the notice dated 19.04.2014 has been rejected without assigning any cogent reason.

3. Learned counsel for the petitioner submits that in response to the notice dated 19.04.2014, which gave only three days' opportunity to answer the same, the petitioner gave a detailed reply on 27.04.2014 (Annexure 8), but the Licensing Authority,



without considering the entire facts and circumstances, as detailed in the said reply, has rejected the petitioner's case and has proceeded to cancel his PDS licence virtually on non est grounds. Learned counsel for the petitioner further submits that the entire order stands vitiated on account of the fact that the authorities have not only failed to consider the show cause of the petitioner but also have clearly violated the terms of the provisions of the Bihar Fair Price Shop Order, 2007 (hereinafter referred to as 'the Control Order, 2007'), which do not provide for cancellation as the provision of cancellation on lodging of an F.I.R. has been deleted in the 2011 Control Order. It has been submitted that earlier under Rule 7(iii), the provision of suspension/cancellation, which was available in the Bihar Fair Price Shop Order, 2007, has now been deleted by Notification of 2011.

4. Learned counsel for the petitioner has referred to the judgment of this Court in the case of ***Dharamdew Chaudhary v. State of Bihar***, reported in ***2015(2) PLJR 246***, wherein this Court, while considering the provisions of the Bihar Trade Articles (Licences Unification) Order, 1984, has decided in the following terms:

“7. The Control Order, 2001 was reinforced in the State of Bihar vide notification dated 20.2.2007. The order as it



was originally enforced in its paragraph 7(3) did provide that the licence of a dealer would be kept under suspension pending outcome of a criminal case but the said provision was deleted under the amendment dated 23.6.2011 and thus there is no such provision which enables the statutory authority to take any action against the dealers on a mere institution of a criminal case. On the contrary, clause 14 of the Fair Price Shop Order, 2007 specifically provides that a licence of a dealer can be cancelled consequent upon conviction.

(Underlining is mine)

5. A bare perusal of paragraph 7 of the said judgment and the rules referred to therein clearly state that as per clause 14 of the Fair Prince Shop Order, 2007, a specific provision has been given that the licence of the dealer can be cancelled consequent upon his conviction.

6. In the instant case, the authorities have totally ignored the said provision and have proceeded to cancel the licence of the petitioner. Furthermore, the impugned order itself is wholly cryptic and without any reason and does not appear to be fair and reasonable.

7. Considering the fact that the impugned order has been passed by the Licensing Authority in total violation of the



provisions of law as also the law as settled by this Court, this Court finds that the impugned order stands vitiated and is fit to be quashed.

8. Accordingly, the impugned order dated 30.04.2014, as contained in Memo No.03 (Annexure 9), is quashed. The writ application is allowed. However, in the facts and circumstance of the case, there shall be no order as to costs.

9. It goes without saying that the petitioner’s licence stands restored and it shall be open to the petitioner to approach the concerned authority for resumption of the supplies to his PDS shop.

(Anjana Mishra, J)

PNM

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	NA
Transmission Date	20.9.2017

