

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4552 of 2017

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Bideshi Ram, S/o Late Sukeshwar Ram, resident of Village- Madhopur, P.O.-
Punarwara Shyam, P.S.- Hathauri, Anchal- Bochahan, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply
Department, Govt. of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Commissioner, Tirhut Division, Muzaffarpur.
4. The District Supply Officer, Muzaffarpur.
5. The Sub-Divisional Officer, East Muzaffarpur.
6. The Block Supply Officer, Bochahan Block, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pradhan Murli Manohar Prasad, AADv.
Mr. Raju Kumar, Adv.

For the Respondent/s : Mr. Nikhil Kr. Agrawal, AC to GP9

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 02-11-2017

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

In this case, the petitioner is challenging the order dated
28.2.2017 passed by the Commissioner, Tirhut Division, Muzaffarpur in
P.D.S. Revision Case No. 192 of 2016, Misc. Case No. 217 of 2016 by
which the Commissioner has affirmed the order passed by the District
Magistrate, Muzaffarpur in Appeal Case No. 34 of 2007-08 as well as the
order of the Sub Divisional Officer, East Muzaffarpur who cancelled the
P.D.S. License of the petitioner having License No. 06/1995.

The petitioner was running a P.D.S. Shop having License No.
06/95, during inspection by the Block Supply Officer, Bochahan, the shop
of the petitioner was found closed and reported the same to the S.D.O., East



Muzaffarpur wherein he has found that the petitioner had not maintained the display board properly and certain persons have also raised a grievance of improper supply of the food grains by the petitioner. The petitioner was asked to give reply which the petitioner has filed, has given reasons that he had gone for preparation of the draft, on that account, the shop remained closed and he has further taken a plea that the non-distribution of food grains in time is completely wrong, on account of Mukhia election dispute, the supporters of present Mukhia might have made a complaint against the petitioner. The S.D.O., East Muzaffarpur has considered all the explanations point by point and has found that the petitioner was not running the P.D.S. shop properly. The petitioner filed an appeal which was also decided against the petitioner. The petitioner also filed C.W.J.C. No. 10108 of 2014 after five years and this Court vide order dated 1.9.2016 asked the petitioner to file a revision application. The revision was filed before the Commissioner, Tirhut Division, Muzaffarpur without making application of mind for condonation of delay in filing the revision application but, the petitioner could not succeed there. The Commissioner not only decided the case on the point of delay in filing the revision application but, has also considered the case on the allegation of illegal manner of running the shop and misdemeanor committed by the petitioner in distribution of the food grains. He has also dealt with the allegation of the petitioner that the supporters of present Mukhia have wrongly made a complaint against him and, after due consideration, the Commissioner has refused to entertain and rejected the revision application.



Learned counsel for the petitioner has placed reliance on the judgment in the case of *Sharwan Kumar Paswan Vs. The State of Bihar & Ors.* reported in *2017 (4) PLJR 89* wherein this Court has held that only because the petitioner has remained absent cannot be a ground for cancellation of the license.

In the present case, not only the petitioner was absent but, a finding has been recorded against the petitioner of not running the P.D.S. shop in a proper manner. So, this judgment does not apply to the facts of the present case.

This court, in the judicial review, is not exercising the power of appeal, only this Court has to see whether the finding is perverse or whether the facts, which were required to be looked into, having been taken into consideration or the fact which was not required to be taken into consideration was the basis for arriving to a finding or the finding is against the weight of evidence and while exercising the power of judicial review, this Court cannot examine the matter as an appellate authority except the manner as indicated hereinabove.

Accordingly, this Court does not find any merit in this writ application and the same is, accordingly, dismissed.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.11.2017
Transmission Date	NA

