

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18587 of 2015

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Surendra Pandey S/o Bibishan Pandey resident of Village- Dekuli Dharmpur, P.S.
Parsauni District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Consumer Protection, Govt. of Bihar, Patna.
2. The Collector cum District Magistrate, Sheohar.
3. The Sub-Divisional Officer, Sheohar District Sheohar.
4. The District Supply Officer Sheohar District Sheohar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uday Kumar, Adv.

For the Respondent/s : Smt. Shilpi Keshri, AC to AAG-X

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 13-04-2017

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

In this case, the petitioner was a PDS dealer under the
Public Distribution System governed by the Bihar Public Distribution
System (Control) Order, 2001.

First Information Report was lodged against the
petitioner and other similarly situated persons for contravening the
provision of aforesaid Control Order, 2001. In view of Clause 7(iii) of
the Control Order, the licence of the petitioner and others were
suspended and, during suspension order, the authority has taken steps
by filling up the purported vacancy caused when there was no such



vacancy in respect of the dealer as has been claimed that suspension is not the termination of dealership as on the day of revocation, the position of the petitioner would be restored in the business without any let and hindrance.

Learned counsel for the petitioner submits that some of the similarly situated persons such as Ganga Sagar Pandey and eight others have approached this Court in CWJC No. 11805 of 2009 and this Court, after considering various aspects of the matter, vide order dated 12.03.2010, directed the Authorities that if the petitioner make any application for revocation of suspension of licence, the authorities may consider the same in accordance with law and pass appropriate orders and if the suspension is revoked their licence would be deemed to have been restored in all respect. The relevant portion of the order reads as follows:-

"In my view, there is no point to keeping the matter pending. In view of the provisions of Clause-7(iii) of the Bihar Public Distribution (Control) Order, 2001, it is clear that the petitioners' licences have been suspended only and not cancelled.

That being so, it cannot be deemed that there are vacancies which can be filled up. The State Authorities cannot take any steps to fill up the vacancies caused by suspension of licences. Any step taken in that direction would be contrary to law and unsustainable. However, if the petitioner make any application for revocation of suspension of licence, the authorities may consider the same in accordance with law and pass appropriate orders and if the suspension is revoked



their licences were deemed to be restored in all respects."

When the Authorities have not acted upon, then the aforesaid persons approached this Court in MJC No. 5508 of 2013 and this Court, vide order dated 24.9.2014, directed for restoration of the license of the petitioners in the following terms:-

"Considering this aspect, I do not feel that the opinion of the Law Department is correct. Once the power to suspend is taken away and this ground is no more available for suspension, then continuation of suspension on this ground cannot be justified.

In view of the aforesaid facts, I direct that within fifteen days from production of a copy of this order before the concerned Sub Divisional Officer, he would pass appropriate orders restoring the licenses of the petitioners.

It is pointed out that so far as petitioner no.3 Vinod Jha is concerned, he has died during the pendency of this application and a substitution petition has been filed by his son Sujit Kumar Ranjan which is allowed. Petitioner no.3 would be accordingly substituted by his son".

Learned counsel for the petitioner submits that the in pursuance of the aforesaid order of this Court, the licence of those persons, who were party to the writ application, have been restored but, the petitioner is moving here and there.

Let the petitioner should file an application before the Licensing Authority bringing to his notice that this case is identical to the case of Ganga Sagar Pandey (supra) and others and the Licensing



Authority will examine the case of the petitioner and will dispose of the same within a period of three months from the date of filing of the application along with a copy of this order. If it is found that both the case of the petitioner is identical to the case of aforesaid Ganga Sagar Pandey (supra), the same relief has to be also given to the petitioner.

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

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.04.2017
Transmission Date	NA

