

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2659 of 2015

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Kuldeep Manjhi, son of Shri Munsu Manjhi, Resident of village - Kishunpura,
Police Station - Atri, District - Gaya

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Department of Food and Consumers Protection, Government of Bihar, Patna
2. The Sub-Divisional Officer, Nimchak Bathani, H.Q. Khizarsarai, District - Gaya
3. The Executive Magistrate, Nimchak Bathani, Distt. Gaya
4. The Assistant District Supply officer, Distt. Gaya
5. The Block Supply officer, Mohda, Distt. Gaya

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Binay Kumar, Advocate

For the Respondent/s : Mr. Manoj Kumar Sinha, AC to GA-09

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 17-01-2017

Heard parties.

The issue involved in this case is that whether the petitioner, who is already working as 'Tola Sevak', can still run a PDS shop or not?

Learned counsel appearing for the petitioner submits that so far as 'Vikash Mitra' is concerned, a decision has been taken that except the civil post 'Vikash Mitra' can engage himself in other works also such as 'Aanganwari Sevika', 'Aanganwari Sahayika', PDS dealer, 'Tola Sevak', 'Mukhiya', 'Sarpanch' etc. It is, therefore, submitted that even if the petitioner is a 'Tola Sevak', it is intriguing as to how his licence granted for running a PDS shop has been



cancelled.

It is admitted position that 'Tola Sevak' is not a civil post under the State Government. The impugned order was passed on 11.11.2014 by the Sub-Divisional Officer-cum-licensing authority. Thus, it has to be understood that provision of Public Distribution System (Control) Order, 2001 was applicable at that point of time.

Supplementary counter affidavit has been filed appending a Notification published in Bihar Gazette (Annexure-4). Clause 2.6 (ch) thereof lays down in clear terms that the shop has not to be allotted to such applicant who holds a post of profit in Government. Admittedly, 'Tola Sewak' is not a post of profit in Government, therefore, licence ought not have been cancelled on that ground alone by the licensing authority.

However, at the same time, it would also have to be considered as to what are the duties of the 'Tola Sevak' and whether a person can at the same time successfully discharge both the duties, i.e, for 'Tola Sevak' and by running a shop or not. That aspect has not at all been considered by the licensing authority concerned. Even if it is assumed that the duties may overlap and, thus, it would not be possible then the petitioner could have been given a choice to select one post of his choice but that has also not been done.

Accordingly, in my view, the order impugned dated



11.11.2014, as contained in Annexure-3, is not at all sustainable in law and, as such, the same is quashed and set aside.

The matter is remitted back to the licensing authority to take a fresh decision in the matter after granting reasonable opportunity to the petitioner and after examining the entire matter in accordance with law.

In the result, this application stands allowed with the aforesaid observations, findings and directions.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	08.05.2017
Transmission Date	N.A.

