

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11945 of 2014

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1. Ram Pravesh Choudhary Son of Sri Jago Choudhary Village Singhaul,
P.S- Belaganj, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Gaya.
3. The Sub-divisional Officer, Sadar Gaya.
4. The Block Supply Officer, Belaganj, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinu Kumar
Mr. Ritika Rahi

Mr. Arbind Kumar Sharma

For the State : Mr. Rajesh Kumar, A.C. to G.P.-3

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

2 14-09-2017 Heard learned counsel for the petitioner and
learned counsel appearing on behalf of the State.

The petitioner seeks to assail an order dated
18.06.2012 passed in Supply Appeal Case No. 144 of 2011
by which the Appeal filed by the petitioner against the
order dated 02.12.2005 (Annexure-1) has been affirmed
and the petitioner's prayer for cancelling the order dated
02.12.2005 has been rejected.

This petitioner, thus, also prays for quashing
the order bearing Memo No. 576 dated 02.12.2005 passed
by the Sub-divisional Officer (Sadar), Gaya by which the
Fair Price Shop Licence of the petitioner has been
cancelled.



Learned counsel for the petitioner submits that in view of the fact that the petitioner's licence has been cancelled on the basis of his shop being closed for one day i.e., 14.05.2005, the petitioner was issued notice with several other allegations which were not fair and tenable as the shop has been allegedly found closed on the said date. The petitioner answered the show cause, but since the authorities even failed to entertain the same and cancelled the licence, the petitioner was constrained to move this Court in C.W.J.C. No. 4250 of 2007 (Ram Pravesh Choudhary Vs. the State of Bihar and Ors.) which was disposed of on 27.10.2009 with liberty to the petitioner to file his appeal under Section 28 of the Bihar Trade Articles (Licences Unification) Order 1984. The Appeal having met with the similar fate vide Annexure-7, has brought the petitioner once again before this Court under Article 226 of the Constitution of India. Learned counsel for the petitioner further submits that the issue with regard to closure of shop for one day has been well settled by this Court in a decision of this Court rendered in 2012(3) P.L.J.R. 583 (DB) (Turant Lal Paswan Vs. State of Bihar & Ors.).

It has been squarely decided that the petitioner's licence cannot be cancelled for closure of one



day. Thus, on the basis of the rationale adopted in the said case, the petitioner's cancellation order stands vitiated and is fit to be set aside.

Learned counsel appearing on behalf of the State has raised the plea that apart from the closure of one day, there were several other allegations.

This Court fails to comprehend as to how such other allegations could have been raised especially when the shop had been found closed and how the cash memo could have been produced so as to raise the allegation against the petitioner that he did not produce the cash memo. Even otherwise the impugned orders stands vitiated for non-consideration of the show cause filed by the petitioner and the settled law of this Court in this regard.

In the result, after hearing learned counsel for the petitioner and learned counsel appearing on behalf of the State and finding that a clear statutory wrong has been occasioned and the action of the petitioner do not stand the taste of reasonableness, this Court finds the impugned order to be vitiated. It is accordingly set aside.

The licence of the petitioner is directed to be restored and it shall be open to the petitioner to move the



authorities for resumption of supply to his shop.

With the aforesaid directions, the writ application stands disposed of.

(Anjana Mishra, J)

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