

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17487 of 2014

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Anandi Rai, son of Late Harihar Rai, resident of Village- Chakwa Jagdishpur,
P.S.+Block+Circle- Sahebganj, District- Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector-cum-District Magistrate, District- Muzaffarpur
3. The Sub-divisional Officer, Muzaffarpur West, District- Muzaffarpur
4. The Block Supply Officer, Block- Sahebganj, District- Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Suraj Nr. Yadav, Advocate
Mr. Upendra Kumar Chaubey, Advocate
For the Respondents : Mr. Upendra Pratap Singh, A.C. to S.C. 4

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

Date: 31-08-2017

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

2. The petitioner is aggrieved by an order dated
28.12.2012 (Annexure 8) passed by the District Magistrate,
Muzaffarpur, in Appeal Case No.10 P.D.S./2010-11, which was
passed confirming the order, contained in Memo No.1208 dated
20.11.2010 (Annexure 6), issued by the Sub-Divisional Officer,
Muzaffarpur West, under which order the PDS dealership of the
petitioner has been cancelled in utter violation of the principles of
law, as contained in the Public Distribution System (Control)
Order, 2001 (hereinafter referred to as “the Bihar Control Orders”).



3. Learned counsel for the petitioner submits that the petitioner had been running his PDS dealership shop for the last 22 years without any complaint from any quarter but, all of a sudden, the petitioner was issued a notice from the S.D.O., Muzaffarpur, calling upon him to show cause, vide Memo No.162 dated 14.03.2009. The petitioner duly answered the same, but close on the heels of the notice came another notice dated 17.09.2009, contained in Memo No.629. The said notice also contained similar allegations, which were duly answered by the petitioner. The third notice to the petitioner was sent on 07.04.2010, vide Memo No.50, raising fresh allegations against him and when the petitioner answered the said show cause notice, the S.D.O., Muzaffarpur directed the Block Supply Officer, Sahebganj to report on the show cause filed by the petitioner, but the Block Supply Officer without visiting the shop of the petitioner submitted his inspection report making further frivolous allegations, which were not at all the same as that has been earlier alleged in the show cause notice.

4. Strangely enough, the petitioner was again saddled with the show cause notice for the fourth time with further allegations, vide Memo No.686 dated 11.06.2010 (Annexure 4), and by the said notice, the petitioner's PDS licence was also suspended. Thus, the petitioner was inflicted with the punishment



of suspension with a further show cause issued to him to answer. By the said notice, the petitioner had also been directed to file his show cause, indicating as to why his dealership be not cancelled.

5. Learned counsel for the petitioner thus submits that this Court in several writ applications has already held that no two punishments are contemplated under the Bihar Control Orders. He thus submits that the impugned notice (Annexure 4) is wholly illegal, arbitrary and cannot be sustained in the eyes of law.

6. It appears from the present facts and circumstances of the case and the counter affidavit filed by the respondents that obviously such an action cannot be sustained in view of the settled proposition of law in this matter. The issue stands decided by a Division Bench decision of this Court reported in the case of *Shiv Chandra Jha v. Harideo Jha*, reported in *2013(2) BLJ 80*. Thus, on this ground also, this Court is of the considered opinion that the impugned orders cannot be sustained. Furthermore, from a perusal of the order of cancellation passed, it appears that the suspension order has already lost its force since more than 90 days have elapsed since the order of suspension. Thus, on this ground, the impugned orders are fit to be set aside.

7. The writ application is allowed. The impugned orders dated 28.12.2012 and 20.11.2010, as contained in Annexures



8 and 6 respectively, are quashed and set aside. The result is thus that the PDS dealership of the petitioner shall stand restored and the authorities shall take necessary steps for resumption of supply to the P.D.S. shop of the petitioner. However, in the facts and circumstances of the present case, there shall be no order as to costs.

(Anjana Mishra, J)

PNM

AFR/NAFR	NAFR
CAV DATE	N.A.
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