

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6805 of 2016

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Manoj Kumar Singh, son of Mahima Singh, resident of village - Arar More, P.S.
& Dist. Gopalganj.

.... Petitioner

Versus

1. The State of Bihar.
2. The Secretary Food & Civil Supplies Department Government of Bihar, Patna.
3. The Commissioner, Saran Division, Chapra.
4. The District Magistrate, Gopalganj.
5. The Sub Divisional Officer, Gopalganj.
6. The Marketing Officer, Gopalganj Town Gopalganj.

.... Respondents

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Appearance :

For the Petitioner : Mr. Akhilesh Kumar, Advocate
For the State : Mr. Sanjay Kumar, A.C. to G.A. 13

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 28-01-2017

As prayed, learned counsel for the petitioner is permitted to make necessary correction in paragraph no.1 with respect to the description of supply appeal.

Heard parties.

Petitioner is aggrieved by the order dated 08.04.2008, as contained in Annexure 8, passed by the Sub-Divisional Officer-cum-Licensing Authority, Gopalganj in supply case no.106 of 2008 by which his PDS licence has been cancelled. Petitioner also assails Annexure 10 which is an appellate order dated 02.01.2012 by which his supply appeal no.10/2011 preferred against the aforesaid order has



been dismissed. Petitioner also assails the revisional order dated 16.03.2013 as contained in Annexure 11 passed by the Commissioner, Saran Division, Chhapra in Supply Revision No. 100 /2012.

It is contended on behalf of the petitioner that vide order dated 15.03.2008, upon the complaints made by certain beneficiaries on which the inquiry was held by the Block Supply Officer on 28.01.2008 finding certain irregularities in view thereof, the petitioner's licence was suspended and he was further directed to show cause as to why his licence should not be cancelled. Finally, his licence was cancelled vide impugned order as contained in Annexure 8.

Sole ground taken by the petitioner is that actions of the Licensing Authority are without jurisdiction as at the relevant point of time, there was no provision under the Public Distribution System (Control) Order, 2001 to keep the licence under suspension in a proceeding for proposed cancellation. Thus, once a mode of punishment of suspension of licence was selected by the Licensing Authority, the subsequent imposition of punishment of cancellation of licence would be without jurisdiction. Reference in this regard is made to a decision of the Division Bench of this Court rendered in *Shiv Chandra Jha Vs. Harideo Jha* [2013 (3) PLJR 956] holding that such action would be without jurisdiction.



I find force in the submissions made on behalf of the petitioner. The issue is no longer *res integra* in view of the aforesaid decision rendered by the Division Bench of this Court in ***Shiv Chandra Jha (Supra)*** that the subsequent action of cancellation would be without jurisdiction. As such, the impugned order as contained in Annexure 8, 10 and 11 are quashed and set aside.

Since the petitioner's licence was suspended vide Annexure 3 dated 15.03.2008, the order of suspension has already outlived its life as the same can be for a maximum period of 90 days only, petitioner's licence is restored and he would be entitled for immediate resumption of supplies.

In the result, this writ application stands allowed.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.04.2017
Transmission Date	NA

