

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9919 of 2015

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Kameshwar Prasad son of Late Raghunath Prasad, resident of village Salempur,
P.S. Tariyani, District Sheohar.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
3. The District Magistrate, Sheohar.
4. The Licensing Authority cum Sub-Divisional Officer, Sheohar.
5. The Block Supply Officer, Tariyani, District Sheohar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Makardhwaj Upadhyay, Adv.
Mr. Sunil Prasad Singh, Adv.

For the Respondent/s : Mr. Dev Kr. Pandey, AC to GP-2

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 29-03-2017

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

In this case, the petitioner is challenging the order of
cancellation of the dealership.

The petitioner is a license holder of Fair Price Shop for
running fair price shop in Salempur Gram Panchayat in the district of
Sheohar. A show-cause notice, contained in letter no. 536 dated
27.12.2012 (as per learned counsel for the State the date is
wrongly typed and the same should be read as "27.11.2012") was
served upon the petitioner, given one week time for submission of his



explanation mentioning in the show-cause for not providing pay-in-slip for lifting the food-grain under the B.P.L./Antyoday Scheme for the period July, 2012 to December, 2012 and, vide Memo No. 783/Aa dated 27.12.2012 of the Supply Section of the Sub Divisional Officer, Sheohar, the license of the petitioner has been cancelled.

Learned counsel for the petitioner submits that how the date of the show-cause and the date of the order of cancellation can be same which has been explained in the counter affidavit that the show-cause was issued in the month of November, 2012 and the order of cancellation was passed in the month of December, 2012 but, the matter will not rest here. As the order of the Sub-Divisional Officer was challenged before the Collector in Appeal No. 35 of 2013 and vide order dated 5.5.2015, the Collector, Sheohar has rejected the appeal on the ground that a criminal case is pending against the petitioner before the criminal court and, as such, the present appeal is not required to be looked into on merit and dismissed the petition on that ground alone without discussing the merit and contents recorded by the Sub-Divisional Officer.

Learned counsel for the petitioner submits that in the criminal case, the petitioner has already been acquitted and the Collector, Sheohar, instead of dismissing the petition on flimsy ground, should have decided the case on merit.



Learned counsel for the State has tried to justify the action of the Collector, Sheohar.

It is very strange that the Collector, Sheohar must have decided the case on merit instead of dismissing the appeal on account of pendency of the criminal case against the petitioner before the criminal court. Accordingly, the order dated 5.5.2015 is set aside and the matter is remanded back to the Collector, Sheohar to take a decision and pass a fresh order in accordance with law.

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

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.03.2017
Transmission Date	

