

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1914 of 2018

=====

Rajdeo Singh, son of Late Kailash Singh, Resident of Village Pakarikanth
(Ramnagar), P.O. and P.S. Lalganj, District Vaishali

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector, Vaishali, District Vaishali.
3. The Sub-Divisional Officer, Hajipur, District Vaishali

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate

For the Respondents : Mr. S. Raza Ahmad -AAG5

Mr. Alok Ranjan, AC to AAG 5

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 13-03-2018

Heard learned counsel for the petitioner as well as
learned counsel for the respondents.

2. The present writ petition has been filed for the
following reliefs—

*(A) A Certiorari for quashing and setting
aside the order passed by the Sub-Divisional Officer,
Hajipur vide Memo No. 1117 dated 8/11/2011 whereby
and whereunder licence of the petitioner's Fair Price
Shop bearing No. – 02/2007 has been cancelled
contained in Annexure-1.*

*(B) A mandamus commanding the
Respondents to restore the petitioner's licence as before
and to make allotment for the petitioner's shop*

*(C) Any other relief or reliefs for which
petitioner may be found entitled in the fact and*



circumstances of the present case may be granted to him”.

I.A.No. 1863 of 2018

3. The interlocutory application has been filed seeking to substitute the prayer no. 1(A) of the writ petition with a prayer for a direction to the licensing authority to pass order in the light of order dated 21.06.2016 passed by learned Collector, Vaishali in P.D.S. Appeal Case No. R 55/2011-12 by which case of the petitioner has been remanded back before the licensing authority with direction to pass speaking order on merit.

4. Having regard to the nature of the prayer, the interlocutory application is allowed and the same shall be treated as forming part of the writ petition.

5. Learned counsel for the petitioner submits that even though the Collector in his appellate order has directed the Sub-Divisional Officer to pass orders afresh, in absence of specific order quashing the earlier order dated 08.11.2011 cancelling the petitioner's PDS license, supplies are not being made to the petitioner.

6. Though a counter affidavit has been filed on behalf of the respondents, this aspect has not been clarified.

7. Having heard learned counsel for the parties and on careful consideration of the material available on record, this Court is



of the view that the earlier order dated 08.11.2011 passed by the Sub-Divisional Officer cancelling the petitioner’s license must be treated as having been set aside in view of the direction of the appellate authority to pass orders afresh by the Sub-Divisional Officer. Until fresh orders are passed, therefore, no cancellation order can be said to be in force. In this view of the matter, the respondents are directed to restore the supply to the petitioner forthwith.

8. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.03.2018
Transmission Date	N.A.

