

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5420 of 2016

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Anil Kumar Mishra, Son of Late Sharmanand Mishra (Baidyaji), resident of
village - Narainia Tola, P.S. Mirganj, District - Gopalganj

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food & Consumer Protection Department, Government of Bihar, Patna
2. The Principal Secretary, Food & Consumer Protection Department, Government of Bihar, Patna
3. The Joint Secretary, Food & Consumer Protection Department, Government of Bihar, Patna
4. The Collector - cum - District Magistrate, Gopalganj
5. The Licensing Authority - cum -Sub-Divisional Officer, Hathua, District - Gopalganj

.... Respondents

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Appearance :

For the Petitioner : Mr. Ashish Giri,
Mr. Pranav Kumar, Advocates
For the Respondents : Mr. Kinkar Kumar, SC-27

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-05-2018

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

2. The present writ application has been filed for the
following reliefs --

“(i) To issue an appropriate writ/order/direction in the nature of Certiorari for quashing the order dated 06.08.2014 passed by the Sub-Divisional Officer, Hathua, District-Gopalganj by which the license for running PDS Shop in District- Gopalganj has been cancelled.

(ii) To issue an appropriate writ/order/direction in the nature of Certiorari for quashing the order dated 11.09.2015 passed by the respondent Collector-cum-District Magistrate, Gopalganj by which the appeal



preferred by the petitioner bearing Appeal Case No. 23/2015 against the order of cancellation of the license has been rejected.

(iii) To issue an appropriate writ/order/direction in the nature of Certiorari for quashing the order dated 22.02.2016 passed by the respondent the Joint Secretary, Food & Consumer Protection Department, Government of Bihar, Patna by which the petition under Order 15(e) of the Public Distribution System (Control) Amendment Order, 2011 against the order of the Collector-cum-District Magistrate, Gopalganj has been dismissed on ground of availability of remedy of appeal before the Divisional Commissioner.

(iv) To issue an appropriate writ/order/direction in the nature of Mandamus commanding the respondents to immediately restore the PDS license of the petitioner.

(v) To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.”

3. Learned counsel for the petitioner submits that the solitary ground given in the relevant show cause notice dated 23.04.2015 for cancelling the PDS licence was that a First Information Report bearing Mirganj P.S. Case No. 190 of 2014 had been instituted against the petitioner. Similarly, the impugned order has been passed on the ground of institution of the aforesaid FIR against the petitioner.

4. Learned counsel for the respondents appears and has been heard.



5. Having heard the parties and on consideration of the materials on record, this Court finds merit in the writ petition. A perusal of the PDS (Control) Order, 2001 read with Rule 7 of the notification in G.S.R. No. 1 dated 20.02.2007 makes it clear that mere institution of a First Information Report would not constitute a valid ground for cancellation of the PDS licence. This view finds support from the decision of this Court in *Umesh Ram vs. The State of Bihar and others*, AIR 2014 Patna 113 as well.

6. In the above view of the matter, the impugned order dated 06.08.2014 passed by the Sub-Divisional Officer, Hathua (Annexure-4) is hereby quashed and consequently the appellate order dated 11.09.2015 passed by the respondent Collector-cum-District Magistrate, Gopalganj in Appeal Case No. 23/2015 is also set aside.

7. Needless to say, supplies to the petitioner shall be restored without delay.

8. The writ petition stands allowed.

(Vikash Jain, J)

B.T/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.05.2018
Transmission Date	N.A.

