

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5968 of 2015

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Sita Ram Rai, aged about 57 years son of Hari Nandan Rai, resident of Village and Post office- Kesavpur, Police Station- Sakra, District- Muzaffarpur.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Consumer and Food Protection, Government of Bihar, Patna.
2. The Principal Secretary, Department of Consumer and Food Protection, Government of Bihar, Patna.
3. The Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate, Muzaffarpur.
5. The Sub Divisional Officer, Muzaffarpur (East).
6. The District Supply Officer, Muzaffarpur.
7. The Block Supply Officer, Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Anand Kumar Ojha
Mr. Ashok Kr. Karna, Advocates

For the Respondents : Mr. Arun Kumar, AC to GP5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-08-2018

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

2. The present writ petition has been filed for quashing of the order of cancellation under Memo No. 1516 dated 30.12.2011 as well as the order dated 06.03.2013 passed by the Divisional Commissioner, Muzaffarpur in Revision (PDS) Case No. 347/2012; and further for direction to the respondents to restore the License No. 14/SAK-01-02.

3. Learned counsel for the petitioner submits that the



impugned order of cancellation dated 30.12.2011 is contrary to law and could not have been founded on a composite notice. It is further submitted that after expiry of 90 days of the suspension order, the petitioner automatically became entitled to restoration of his licence and there could have been no occasion for the District Level Committee to have refused such restoration. It is further submitted that the action of the respondents in suspending the petitioner's PDS licence by order dated 02.09.2009 and thereafter cancelling the same by the impugned order dated 30.12.2011 is wholly arbitrary and illegal inasmuch as the same amounts to double punishment. Reliance is placed on a Division Bench judgment in *Shiv Chandra Jha vs. Harideo Jha and others*, 2013(3) PLJR 956.

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

5. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court finds substance in the submission on behalf of the petitioner. Even though the contention based on double punishment has not specifically been raised in the pleadings, the same involves an issue of law and is fit to be considered at this stage. It is borne out from the writ petition itself that the petitioner was visited with an order of suspension dated 02.09.2009 and his PDS licence remained suspended during the



validity period of suspension namely 90 days. The impugned order of cancellation dated 30.12.2011 amounts to double punishment as the petitioner has already suffered the penalty of suspension on the same set of charges. The above view of the petitioner is worthy of acceptance and it is thus not necessary to consider the remaining submissions of the petitioner.

6. Accordingly, the impugned order of cancellation dated 30.12.2011 (Annexure-6) is hereby quashed. Consequently, the revisional order dated 06.03.2013 (Annexure-7) also stands quashed.

7. The writ petition stands allowed.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	08.09.2018
Transmission Date	N.A

