

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9239 of 2017

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Gorelal Mandal, Son of Late Hito Mandal, Resident of Village and Post-Fatehpur, P.S.- Nathnagar, District- Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Commissioner, Bhagalpur Division, Bhagalpur.
3. The Collector, Bhagalpur, District- Bhagalpur.
4. The Sub-Divisional Officer, Sadar, Bhagalpur, District- Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate.
For the Respondents : Mr. S.RAZA Ahmad, AAG-5
Mr. Md. Kamil Akhtar, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 16-01-2018

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

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

“(A) Certiorari for quashing and setting aside the order passed by the Sub-Divisional Officer, Sadar, Bhagalpur vide Memo No. 454 dated 25.08.2014 contained in Annexure-1 whereby and whereunder license of the petitioner’s Fair Price Shop bearing No. 01/93 has been cancelled as well as quashing and setting aside the order dated 27.09.2016 passed by the learned Collector, Bhagalpur in Miscellaneous Supply Appeal Case No. 39/2014-15 contained in Annexure-6 whereby and whereunder appeal filed by the



petitioner against the cancellation order has been rejected and quashing and setting aside the order dated 25.02.2017 passed by the learned Commissioner, Bhagalpur Division, Bhagalpur in Miscellaneous (Supply) Revision Appeal Case No. 19/2016-17 contained in Annexure-7 whereby and whereunder revision filed by the petitioner against the appellate order has been rejected.

(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 facts and circumstances of the present case may be granted to him."

3. Learned counsel for the petitioner submits that the impugned order of cancellation of his PDS license has been passed which is wholly arbitrary and unsustainable. It is submitted that the petitioner's shop was closed only for one day to enable the petitioner to seek medical treatment. Reliance is placed on a Division Bench of this Court in C.W.J.C. No. 10213 of 2010 (*Turant Lal Paswan Vs. The State of Bihar and Ors.*).

4. Learned counsel for the respondents appears and has been heard. The stand of the petitioner has not been controverted in the counter affidavit.

5. Having regard to the nature of the grievance of the petitioner, this Court is of the view that cancellation of the PDS license of the petitioner is unduly harsh and not commensurate with the



nature of default attributed to the petitioner who was forced to keep his shop closed for only one day. A statement is made on behalf of the petitioner that no third party rights have been created in respect of the subject PDS license shop which was being operated by the petitioner.

6. In the above circumstances, the impugned order dated 25.08.2014 (Annexure-1), the appellate order dated 27.09.2016 (Annexure-6) as well as the revisional order dated 25.02.2017 (Annexure-7) are hereby quashed and the writ petition stands allowed. Supplies to the petitioner shall be restored without delay by the respondent no. 4.

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.01.2018
Transmission Date	N.A.

