

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8754 of 2015

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Umesh Das, Son of Late Ram Briksh Das, Resident of Village + Post Office -
Belaganj, Police Station - Belaganj, District - Gaya.

.... Petitioner

Versus

1. The State of Bihar.
2. The District Magistrate-cum-Collector, Gaya.
3. The Sub Divisional Officer, Sadar Gaya.
4. The Block Supply Officer, Belaganj, Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Umesh Kumar, Advocate

For the Respondents : Mr. Vinay Kirti Singh- GA3

Mr. Akhileshwar Singh, AC to GA 3

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 13-08-2018

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

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

*“(i) For issuance of a writ in the nature of certiorari or
any other appropriate writ for quashing of the order
dated 09.10.2007 issued as contained in Memo No. 46
dated 11.10.2007 under the signature of the Sub
Divisional Officer, Sadar Gaya, (Licensing Authority) by
which, the licence bearing No. 2/1994 of the PDS shop
of the petitioner was suspended.*

*(ii) For issuance of writ in the nature of certiorari or
any other appropriate writ for quashing of the order as
contained in Memo No. 1365 dated 12.07.2008 passed in
P.V.S. 01/Aa dated 25.08.2008 by the Sub Divisional
Officer, Sadar Gaya (Licensing Authority) by which, the
licence bearing no. 2/1994 of the PDS shop of the*



petitioner has been cancelled.

(iii) For issuance of a writ in the nature of mandamus or any other appropriate writ commanding the respondents to restore the licence of the PDS shop of the petitioner without any unreasonable delay and allow her to carry the business of PDS shop.

(iv) For holding that once a decision dated 09.10.2007 was taken, suspending the licence of the petitioner, the authority concerned was not justified in inflicting another punishment of cancellation of licence on the same charges and as such the order of cancellation of the licence of the petitioner suffers from the vice of double jeopardy.

(v) For issuance of any other appropriate writ(s), order(s) or direction(s) which your Lordships may deem fit and proper in the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that the action of the respondents in suspending the petitioner's PDS licence by order dated 09.10.2007 and thereafter cancelling the same by the impugned order dated 12.07.2008 is wholly arbitrary and illegal inasmuch as the same amounts to double punishment. It is specifically pointed out that the cancellation order has been passed beyond the statutory period of 90 days during which suspension order was valid. As such, the petitioner had already suffered punishment of suspension and has over again been visited with the punishment of cancellation. 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 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 09.10.2007 and his PDS licence remained suspended during the validity period of suspension namely 90 days. The impugned order of cancellation dated 12.07.2008 amounts to double punishment as the petitioner has already suffered the penalty of suspension on the same set of charges.

6. Accordingly, the impugned order dated 12.07.2008 (Annexure-3) is hereby quashed. The writ petition stands allowed.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
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