

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7013 of 2015

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Vinod Kumar Das, Son of Late Mungeshwar Mehra, Resident of Benorpur, P.S.-
Sokra, District- Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Civil Supply Department,
New Secretariat, Patna
2. The Secretary, Food & Civil Supply Department, New Secretariat, Patna
3. The District Magistrate, Muzaffarpur
4. The Sub-Divisional Magistrate, East, Muzaffarpur
5. Additional Collector, Muzaffarpur
6. District Supply Officer, Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner : Mr. N.K. Agrawal, Sr. Advocate

Mr. D.N. Tewari, Advocate

For the Respondents : Mr. Vikash Jha, AC to GA 9

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 07-08-2018

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

2. The present writ petition has been filed for quashing the order contained in memo no. 10 dated 01.11.2012, passed in Case No. 03/2012 passed by learned Sub-Divisional Officer, East, Muzaffarpur, whereby and whereunder the license of the petitioner bearing license no. 02-SAK-02-08 to run the PDS shop at Panchayat Bariyarpur, Block Sakra, District Muzaffarpur has been cancelled.

3. Learned senior counsel for the petitioner submits that the action of the respondents in suspending the petitioner's PDS licence by order dated 18.10.2008 and thereafter cancelling the same



by the impugned order dated 01.11.2012 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 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 18.10.2008 and his PDS licence remained suspended during the validity period of suspension namely 90 days. The subsequent cancellation order dated 18.02.2009 was set aside in appeal by order dated 28.09.2012 and the matter remanded for fresh consideration. The impugned order of cancellation dated 01.11.2012 passed on remand 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 01.11.2012 (Annexure-1) is hereby quashed. The writ petition stands allowed.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.08.2018
Transmission Date	N.A.

