

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2481 of 2016

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Bhimsen Tiwary, son of Late Balmiki Tiwary, resident of village Akopur, Gram Panchayat Bindusar, P.S. Siwan (M), District Siwan

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food Supply and Commerce Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Saran at Chapra.
3. The District Magistrate, Siwan.
4. The Sub Divisional Officer, Siwan

.... Respondents

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Appearance :

For the Petitioner : Mr. Raghav Prasad, Advocate

For the Respondents : Mr. Ravi Bhardwaj, AC to GA 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 07-05-2018

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

2. The present writ petition has been filed for quashing the order contained in memo no. 115 dated 28.04.2008 passed by the Sub-Divisional Officer, Siwan whereby and whereunder the licence of the petitioner bearing No. 1746/1985 for running a fair price shop has been cancelled and further for quashing the order dated 31.08.2012 passed in Supply Appeal No. 28 of 2011-12 by the District Magistrate, Siwan and the order dated 23.06.2015 passed in Supply Revision No. 28/2013 by the Divisional Commissioner, Saran at Chapra.



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.

6. In the above circumstances, the impugned order contained in memo no. 115 dated 28.04.2008 passed by the Sub-Divisional Officer, Siwan (Annexure-2); the appellate order dated 31.08.2012 passed in Supply Appeal No. 28 of 2011-12 by the District Magistrate, Siwan (Annexure-3) and the revisional order dated 23.06.2015 passed in Supply Revision No. 28/2013 (Annexure-4) are hereby quashed and the writ petition stands allowed. Supplies to the petitioner shall be restored without delay by the respondent no. 4.



7. The writ petition stands allowed.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
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