

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12274 of 2018

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Bal Krishna Das, son of late Setho Das, Resident of village Phulwariya, P.S.
Phulwariya, District Begusarai

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector, Begusarai, District Begusarai.
3. The Sub-Divisional Officer, Teghra, District Begusarai.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Rajeev Kumar Labh, Adv

For the Respondent/s : Mr. ARVIND UJJWAL - SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-07-2018

The present writ petition has been filed for quashing the order contained in memo no. 694 dated 26.11.2012 (Annexure-1) passed by the Sub-Divisional Officer, Teghra, District Begusarai and the appellate order dated 20.03.2018 in P.D.S. Case No. 133 of 2012 passed by the Collector, Begusarai by which the PDS licence of the petitioner has been cancelled; and for a direction to the respondents to restore the licence of the Public Distribution System of the petitioner with immediate effect.

2. Learned counsel for the petitioner submits that the action of the respondents in suspending the petitioner's PDS licence by the order dated 11.01.2012 and thereafter cancelling the same by the impugned order dated 26.11.2012 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.

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

4. In the above view of the matter, this Court is satisfied that cancellation of the PDS Licence without proper show cause notice indicating specifically about the proposed cancellation is in violation of natural justice and thus the decision making process stands vitiated. Such infirmity could not be cured in the appeal as well. The petitioner has already suffered a penalty of suspension and for the same set of charges he cannot be again visited with the penalty of cancellation. The impugned order dated 26.11.2012 (Annexure-1) as also the appellate order dated 20.03.2018 (Annexure-8) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Teghra, District Begusarai for taking decision afresh in the matter after serving show cause notice upon the petitioner and granting an opportunity of hearing in accordance with law. Licence of the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 3.

5. It is made clear that in case the stand of the petitioner denying non-service of proper show cause notice prior to order of cancellation being passed is found to be incorrect, the respondents shall be at liberty to approach this Court for recall of this judgment.

6. The writ petition stands allowed as above.



(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
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