

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1387 of 2016

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Ramnath Prasad, Son of Sri Foudari Das, Resident of Village and Post Bairia,
P.S. - Gopalpur, District - Patna.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Patna District - Patna.
3. The Licensing Authority-cum-Sub-Divisional Officer, Patna Sadar, District - Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate

For the Respondents : Mr. Avinash Kumar, AC to GA 10

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 13-04-2018

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 –

“(A) A Certiorari for quashing and setting aside the order passed by the Licensing Authority-cum-Sub-Divisional Officer, Patna Sadar vide Memo No. 3283 dated 29/10/2011 contained in Annexure-1 whereby and whereunder licence of the petitioner’s Fair Price Shop bearing No. 85/07 has been cancelled.

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

3. Learned counsel for the petitioner submits that NEFT payment could not be made for certain months between June and August, 2011 owing to illness and financial constraints. Default in remittance was not willful and in any event the Principal Secretary, Food and Consumer Protection Department, Government of Bihar by letter dated 12.09.2012 had instructed all the District Magistrates that license should not be cancelled on the ground of failure to make payment for lifting the food-grains.

4. Learned counsel for the respondents relies on the counter affidavit to submit that the petitioner had defaulted in making NEFT payments for the months of June and August, 2011 leading to issuance of show cause and finally cancellation of the petitioner's PDS license.

5. Having heard the parties and on a careful consideration of the materials on record, the impugned order dated 29.10.2011 passed by the Licensing Authority-cum-Sub-Divisional Officer, Patna Sadar (Annexure-1) is hereby set aside and the license of the petitioner is directed to be restored. It is made clear that in case similar default is committed by the petitioner in future, the authorities shall be at liberty



to take appropriate action in the matter.

6. The writ petition stands allowed.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
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