

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9493 of 2015

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Uday Singh Son of Late Bhuneshwar Singh Resident of village - Darmikala,
Block - Nabinagar, P.S. Nabinagar, District - Aurangabad (Bihar)

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Food and Civil Supply, Government of Bihar, Patna
2. The District Magistrate - Cum - Collector, Aurangabad, District Aurangabad
3. The Sub-Divisional Officer (Supply Department) Aurangabad Sadar, Aurangabad
4. The Block Supply officer, Nabinagar, District - Aurangabad

.... Respondents

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Appearance :

For the Petitioner : Mr. Ajay Kumar Sharma, Advocate

For the Respondents : Mr. Kumar Ravish, AC to GA9

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 14-08-2018

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

2. The present writ petition has been filed for quashing the order dated 18.11.2014 passed by the District Magistrate, Aurangabad in PDS Appeal Case No. 164 of 2013 whereby and whereunder he has rejected the appeal filed by the petitioner; and further for quashing of the order dated 08.02.2010 passed by learned Sub-Divisional Officer, Aurangabad Sadar, whereby and whereunder the license of the petitioner bearing license of PDS shop No. 4/N/87 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 31.07.2009 and thereafter cancelling the same by the impugned order dated 08.02.2010 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 31.07.2009 and his PDS licence remained suspended during the validity period of suspension namely 90 days. The impugned order of



cancellation dated 08.02.2010 amounts to double punishment as the petitioner has already suffered the penalty of suspension on the same set of charges.

6. Accordingly, the appellate order dated 18.11.2014 passed in PDS Appeal Case No. 164/2013 (Annexure-1) and the impugned order dated 08.02.2010 (Annexure-2) are hereby quashed. The writ petition stands allowed.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
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