

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15682 of 2015

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Bhagwan Singh S/o Late Ram Sakal Singh Resident of Village Bairiya, P.O.
Paraspatti, P.S. Sahebganj, District Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
3. The District Magistrate, Muzaffarpur, District Muzaffarpur.
4. The Sub Divisional Officer, West Muzaffarpur, District Muzaffarpur.
5. The Block Supply Officer, Sahebganj, District Muzaffarpur.

.... Respondent/s

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Appearance:

For the Petitioner/s : Ms. Anita Kumari, Adv

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-08-2018

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 contained in memo no. 925 dated 26.12.2008, passed by the
learned Sub-Divisional Officer, West, Muzaffarpur, whereby and
whereunder the PDS license of the petitioner has been cancelled.

3. Learned counsel for the petitioner submits that the
action of the respondents in suspending the petitioner's PDS licence by
order dated 23.02.2006 and thereafter cancelling the same by the
impugned order dated 26.12.2008 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 23.02.2006 and his PDS licence remained suspended during the validity period of suspension namely 90 days. The impugned order of cancellation dated 26.12.2008, 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 26.12.2008, (Annexure-1) is hereby quashed. The writ petition stands allowed.

(Vikash Jain, J)

Chandran/Md. Ibrarul

AFR/NAFR	NAFR
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