

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17174 of 2015

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Sanjay Kumar Srivastava S/o Late Saryug Prasad, resident of village -
Dharmagatpur, P.S. Sakra, Panchayat - Pilkhigajpati, District - Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Consumer Protection Department, Bihar, Patna
2. The Collector, Muzaffarpur
3. The Sub - Divisional officer, (East) Muzaffarpur
4. The Block Development Officer - Cum - In - Charge Block Supply Officer, Muraul, Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Advocate.

For the Respondents : None

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-08-2018

The present writ petition has been filed for quashing of the order contained in Memo No. 533/AA dated 31.12.2014 passed by the learned Sub-Divisional Officer (East), Muzaffarpur, whereby the license of the petitioner to run the public distribution shop being license no. 08-MUR/04/08 has been cancelled.

2. Learned counsel for the petitioner submits that the order of cancellation of his PDS license is wholly arbitrary and contrary to the provisions of the Control Order which permit cancellation of license only with regard to commission of an offence under Section 3 of the Essential Commodities Act. In the present case, the petitioner was



charged of the offence under various sections of Indian Penal Code in Sakra P.S. Case No. 30/1997 and for which he was sentenced for three and half years and Rs.1,000/- fine, against which appeal was also dismissed by the learned Additional Sessions Judge, Muzaffarpur.

3. None appears on behalf of the respondents when the matter is called.

4. Having heard learned counsel for the petitioner and on consideration of the materials on record, this Court finds merit in the writ petition. The consequences of conviction are to be found in para-14 of the PDS (Control) Order, 2001 which reads as follows –

“Consequences of Conviction

Where a licensee has been convicted by a court of law for the contravention of any order made under section-3 of the Essential Commodities Act, 1955 (Central Act 10 of 1955) the Licensing Authority shall by order in writing cancel his licence.

Provided that where such conviction is set aside in any appeal or revision, the Licensing Authority may, on an application by the dealer whose licence has been cancelled, restore, the licence to such dealer.”

5. It is therefore evident that the licensing authority would cancel the license only where the licensee has been convicted for contravention of an Order under Section 3 of the Essential Commodities Act, 1955. In the present case, the petitioner has not



been so convicted inasmuch as the offences with which he was charged in Sakra P.S. Case No. 30/1997 under various sections of Indian Penal Code as stated in paragraph-4 of the writ petition.

6. In the above circumstances, the impugned order dated 31.12.2014 passed by the learned Sub-Divisional Officer, (East), Muzaffarpur (respondent no. 3) is hereby quashed and the license of the petitioner shall stand restored, if no other proceeding is pending against the petitioner.

(Vikash Jain, J)

Md. Ibrarul /BT

AFR/NAFR	NAFR
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