

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2617 of 2015

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Yogendra Thakur, Son of Late Tej Narain Thakur, Residnt of Baradih, P.S. -
Runi Saidpur, District - Sitamarhi.

.... Petitioners

Versus

1. The State of Bihar through Secretary, Food Supply Department, Government of Bihar, Patna.
2. The Secretary, Food Supply Departmentm Government of Bihar, Patna.
3. The District Magistrate cum Collector, Sitamarhi.
4. The Sub-Divisional Magistrate cum Sub-Divisional Officer, Sitamarhi at Sitamarhi.
5. The Block Supply Officer, Runi Saidpur Block, at Runi Saidpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Vijay Anand, Advocate

For the Respondents : Mr. Nishant Kr. Jha, AC to GP 21

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-08-2018

The present writ petition has been filed for quashing the appellate order dated 10.11.2014 passed by learned District Magistrate, Sitamarhi in Supply Appeal Case No. 05/2013 (Annexure-11) whereby and whereunder the District Magistrate dismissed the appeal and affirmed the impugned order contained in Memo No. 34 dated 22.10.2011 (Annexure-10) passed by the Sub-Divisional Officer, Sitamarhi by which the PDS licence of the petitioner bearing Licence No. 48/89 (old), 38/08 (new) 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 23.07.2011 and thereafter cancelling the same by the impugned order dated 22.10.2011 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. The stand of the petitioner has not been controverted in the counter affidavit.

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 22.10.2011 (Annexure-10) as also the appellate order dated 10.11.2014 (Annexure-11) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Sitamarhi 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. 4.

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)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
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