

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6145 of 2018

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Sanjay Kumar, S/o Late Tileshwar Chaudhary, Resident of Village- Ramadih, P.S.-
Paraiya, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food Commerce & Civil Supplies, Bihar, Patna.
2. The Divisional Commissioner, Magadh Division, Gaya.
3. The Sub Divisional Officer, Tikari, Gaya.
4. The District Supply Officer, Gaya.
5. The Block Supply Officer, Paraiya, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sudhir Kumar Sinha

For the Respondent/s : Mr. S. RAZA AHMAD- AAG5

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

Date: 30-07-2018

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

Petitioner is aggrieved by the order contained in Memo
No. 1114 dated 15.12.2017 passed by the respondent no. 3, Sub
Divisional Officer, Tekari under the Bihar Targeted Public
Distribution System (Control) Order, 2016 whereby the licence of
the PDS shop of the petitioner bearing Licence No. 22 of 2016 has
been cancelled on the ground that during course of inspection, the
PDS shop was found closed which has also led to filing of F.I.R.



being Paraiya P.S. Case No. 89 of 2017 under Section 7 of the Essential Commodities Act.

Learned counsel for the petitioner submits that the petitioner has neither be convicted by the criminal court and has been granted bail by this Court but his licence has been cancelled by the respondent no. 3 without considering his show cause. In this connection, he relies on the order of this Court passed in C.W.J.C. No. 1898 of 2016 dated 02.02.2016 as contained in Annexure-4 stating therein that his licence could not have been cancelled merely on the ground of lodging of F.I.R.

Learned counsel for the State, however, submits that an F.I.R. has been lodged under Section 7 of the E.C. Act and the irregularities found has been enquired into and a show cause issued to the petitioner, finding the show cause unsatisfactory, the order of cancellation has been passed by the respondent no. 3 vide order dated 15.12.2017. He submits that the proceedings before the S.D.O are civil proceedings for which an alternative remedy of appeal is provided.

I am in agreement with the argument of the learned counsel for the State. The criminal proceedings and civil proceedings cannot be put in strait jacket formula and there is provision of appeal before the appellate authority which the petitioner can very well



avoid.

This writ application is disposed off with an observation that the petitioner may seek alternative remedy of appeal before the competent authority which on considering that the petitioner was pursuing his remedy before this Court the limitation would be condoned if the appeal is filed within seven days of the receipt of the copy of this order. The appeal would be disposed of by the appellate authority within the statutory period as provided under the Act.

Writ application is disposed of with the aforesaid observation.

(Nilu Agrawal, J)

Devendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.07.2018
Transmission Date	NA

