

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7227 of 2018

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Ganesh Shankar Prasad, S/o Late Ramdas Singh, resident of Village- Lodipur,
P.O.- Lodipur, P.S.- Paraiya, District- Gaya.

.... Petitioner

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, Tekari, Gaya.
4. The District Supply Officer, Gaya.
5. The Block Supply Officer, Paraiya, Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sudhir Kumar Sinha, Advocate

For the Respondents : Mr. Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 19-06-2018

Heard learned counsel for the petitioner and the State

2. Grievance of the petitioner is that the Sub-Divisional Officer, Tekari, Gaya vide order dated 19.12.2017 (Annexure 3) has cancelled the PDS licence of the petitioner on the ground that Paraiya P.S. Case No.89/2017 has been lodged against the petitioner under the various provisions including Section 7 of the Essential Commodities Act, 1955.

3. It is contended that this issue is no longer res integra as this Court has held on several occasions that PDS licence cannot be cancelled in the aforesaid manner.



4. I find force in the submission raised on behalf of the petitioner. There are only two provisions for cancellation of licence under the Public Distribution System (Control) Order, 2001. One is under Clause 7(ii) which lays down in clear terms that if the licensee contravenes any provision or any terms and conditions of license then apart from taking action against him under the Essential Commodities Act, 1955, his license can be cancelled by the Licensing Authority but not before granting him reasonable opportunity for stating his case against the proposed cancellation. The second provision is under Clause 14 which is consequential to the confiscation of the licensee under the provision of Essential Commodities Act. It provides that once a licensee has been convicted as above, the Licensing Authority by recording order in writing would cancel his licence. Except this there is no other provision that the moment first information report is lodged under any section of the Essential Commodities Act, 1955 the licence is necessarily or automatically has to be cancelled.

5. Accordingly, in my view, the impugned order, as contained in Annexure 3, cannot be sustained and the same is quashed and set aside.

6. As a consequence of the setting aside of the order as contained in Annexure 3, the supplies to the petitioner should be restored.



7. However, it is made clear that this order would not come in the way of the authorities if they decide to issue a fresh show cause notice against the petitioner for any violation of the terms and conditions or provisions under Clause 7(ii) of the Public Distribution System (Control) Order, 2001 but in such case, procedure laid down under the Control Order has to be followed.

8. Accordingly, this writ petition stands allowed.

(Vikash Jain, J)

B.T/Chandran

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