

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4112 of 2019

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Gahnu Sah S/o Late Baudha Sah R/o village-Nagwan, P.O and P.S and Block-Patedi Belsar, District-Vaishali (Public Distribution System Dealer, Nagwan Panchayat, Block-Patedi, Vaishali)

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna
2. District Magistrate, Vaishali
3. S.D.M, Vaishali at Hajipur
4. Nand Kishore Ravidas, Asst. District Supply Officer, Hajipur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Rina Sinha, Advocate
For the Respondent/s : Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 29-05-2019

Heard learned counsel for the petitioner and learned AC
to AAG 5 for the State.

2. The petitioner has moved the Court for the following
relief:

*“ That, the present writ application is being filed for
issuance of appropriate writ or writs, directing the
respondents to recall the order of cancellation of
petitioner’s dealership passed in Supply Case No.
64/2018 on 10.10.2018.”*

3. The petitioner, being a dealer under the Public
Distribution System is accused of various irregularities leading to
cancellation of his licence by order dated 10.10.2018 in Supply
Case No. 64 of 2018.



4. The PDS shop of the petitioner was found closed on 16.08.2018 when the District Supply Officer had gone for its inspection. This led to issuance of show cause dated 05.09.2018 calling upon the petitioner to produce all the relevant registers and documents with regard to running of his shop before the authority on 14.09.2018. On 14.09.2018, the same was not produced and further time was given till 17.09.2018. Both on 14.09.2018 and 17.09.2018, the grandson of the petitioner appeared before the authority. However, no documents/registers/papers were submitted. After hearing, the licensing authority, by order dated 10.10.2018, cancelled the licence of the petitioner. The same is impugned in the present writ petition.

5. Learned counsel for the petitioner submitted that the shop was closed only for one day and the same cannot be a ground for cancellation. It was further submitted that the petitioner is 85 years old and, thus, not keeping well and due to his ill health the shop was closed. It was further pointed out that the Hon'ble Supreme Court in Civil Writ Petition No. 196 of 2001 had ordered that only if during the period of licence the shop is not opened for one month, action be taken against the concerned PDS dealer. It was further submitted that there was no complaint from any beneficiary.



6. Learned counsel for the State submitted that the petition is not fit to be entertained on the ground of delay and laches. It was submitted that the impugned order was passed on 10.10.2018 and under the Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as the 'Control Order, 2016') there is a remedy to file appeal before the District Magistrate within 30 days of the order which has not been availed and even the present writ petition has been filed after more than four months. On merits, he submitted that the Annexures to the writ petition relating to the so called illness of the petitioner are not relevant for they do not relate to the day on which the inspection was made, i.e., 16.08.2018 or are even in close proximity to such date.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present writ petition. The shop of the petitioner having been found closed when the District Supply Officer, Hajipur had gone to inspect it on 16.08.2018, resulted in show cause issued to the petitioner on 05.09.2018. Perusal of the same, copy of which is Annexure-3 to the writ petition, reveals that the shop was found closed on the day when it was to be open, due to which inspection of the shop and verification of the



concerned records could not be made. Thus, the authorities had called upon the petitioner to appear on 14.09.2018, along with his show cause and records, including registers with regard to the previous three months, failing which he would be proceeded against for cancellation of the licence under the Control Order, 2016. The petitioner did not appear and rather his grandson appeared on 14.09.2018 before the authorities but without any paper/register. The authorities gave him further time till 17.09.2018 and on that day also the grandson of the petitioner appeared and submitted his show cause. After hearing the parties, and going through whatever material was available, the lincensing authority by order dated 10.10.2018 has cancelled the licence of the petitioner. From the same, it is apparent that glaring irregularities relating to running of PDS shop by the petitioner has been found for which the petitioner is liable to be proceeded against. Further, the order is quite detailed. The contention of learned counsel for the petitioner that the licence has been cancelled only because the shop was closed for one day is totally erroneous. The show cause itself shows that the shop was found closed on 16.08.2018 and then the authorities had called upon the petitioner to appear and produce various documents/materials with regard to running of his PDS shop. Consideration also in the



impugned order is on merits relating to the working/functioning/running of the PDS shop and not merely closure on 16.08.2018.

8. At this juncture, the Court deems it proper to refer to the contention of learned counsel for the petitioner that he is 85 years of age and suffering from various ailments. The Court would only observe that if it is a fact, running of a PDS shop by him is probably not in his interest and certainly not in public interest for the reason that the shops under the PDS scheme are for the purposes of benefiting the masses who are in requirement of such government support and not for the individual who is running the PDS shop. Thus, on the ground that the health of the petitioner does not permit him to run the shop, probably the authorities are required to choose an alternative. However, this is not the ground taken by the authorities and the Court has observed this only in view of the submissions made by learned counsel for the petitioner in this regard.

9. Upon going through the reasons assigned in the well discussed impugned order, the Court finds that the decision of cancellation of the licence of PDS shop in favour of the petitioner does not require any interference, either on facts or in law.



10. For reasons aforesaid, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J)

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