

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13227 of 2019

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Karu Bhagat @ Kadi Bhagat, aged about 43 years, (Male) Son of Maran Bhagat, Resident of Village- Rustampur, P.S. Raghapur, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Vaishali at Hajipur.
3. The Sub Divisional Officer, Hajipur.
4. The Block Development Officer, Hajipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anujit Sinha, Advocate
For the State	:	Mr. U.P. Singh, A.C. to SC-4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 15-10-2019 Heard learned counsel for the petitioner and

learned counsel representing the State.

In view of the submissions made on behalf of the petitioner based on certain judicial pronouncements particularly the one in the case of **Turant Lal Paswan Vs. State of Bihar** reported in **2012 (3) PLJR 583**, learned counsel for the State submits that the writ application may be disposed off without inviting a counter affidavit, as according to him, the issues which are already settled by the judicial pronouncements cannot be disputed by filing a counter affidavit.



Learned counsel for the petitioner has shown from the show cause notice as contained in Annexure '1' to the writ application that the three grounds on which the petitioner was called upon to show cause could not have been made a ground for cancellation of licence itself. The first ground for cancellation is that the shop in question was found closed on the date of inspection. The second ground is that no notice was found outside the shop premises and the third ground is that the list of the consumers were not found pasted on the notice board. The petitioner has submitted his explanation before the Sub-Divisional Officer, however it appears that the Sub-Divisional Officer has proceeded to pass a final order cancelling the licence by referring to certain provisions of the Bihar Targeted P.D.S. (Control) Order, 2016 (hereinafter referred to as the "Control Order 2016") and the judgment of the Hon'ble Apex Court.

To this court, it appears that while passing the impugned order the Sub-Divisional Officer has travelled beyond the grounds on which the show cause notice was issued to the petitioner. It is not a case where the petitioner



was found involved in black-marketing or there was any complaint of non-distribution of the food-grains to the consumers.

For the reasons stated in the show cause notice saying that on the date of inspection the shop was closed and that the notice board was not there having information with regard to the beneficiaries, the drastic action towards cancellation of the licence itself cannot be said to be proportionate to the status of the guilt of the petitioner. The impugned order is thus required to be interfered with taking note of the proportionality of the punishment.

The impugned order is thus set aside. The licence of the petitioner is restored.

The Writ Application is disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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