

CWP-18477-2015

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-18477-2015

Date of Decision: April 08, 2019

Ajay Kumar

... Petitioner

vs.

State of Haryana and Ors.

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Rakesh Sharma, Advocate for
Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Sunil Kumar Vashisth, Deputy Advocate General,
Haryana.

ARUN MONGA, J

The petitioner is aggrieved against the order 24.07.2014/05.08.2014 (Annexure P-3), passed by District Food & Supply Controller, Sonapat by which his license for running the ration depot has been cancelled.

2. In short, the facts of the case are that upon complaint(s) filed by certain villagers/ ration card holders, an inquiry was conducted against the petitioner and vide inquiry report dated 08.05.2014 (Annexure R-1), the petitioner was indicted. Pursuant thereto, show cause notices dated 17.06.2014 and 07.07.2014 (Annexures R-2 and R-3, respectively), were issued and after considering the reply filed by the petitioner to the show cause notice and after due grant of opportunity of personal hearing, the impugned

order of cancellation of ration depot was passed.

3. Learned counsel for the petitioner submits that based on the same set of allegations, criminal proceedings were also initiated against the petitioner and vide judgment dated 16.12.2015 (Annexure P-6), the petitioner was acquitted.

4. Learned counsel for the petitioner has vehemently relied on Clause 14 of the Haryana Public Distribution System (Licensing and Control) Order, 2009, which is extracted herein below for ready reference:-

“Notwithstanding anything contained in clause, 13, where a licensee has been convicted by a court of law in respect of contravention of any order made under section 3 of the Act relating to any of the essential commodities, the licensing authority shall by order in writing, cancel his license immediately.

Provided that where such conviction is set aside in any appeal or revision, the licensing authority may, on application in Form A by the person whose license has been cancelled, reissue the license, without payment of any fee, to such person up to the period mentioned in the license so cancelled.”

5. Learned counsel for the petitioner has laid strong emphasis on the word 'notwithstanding' in the Clause 14, *ibid* and submits that once it is established that Criminal Court has acquitted the petitioner of the same set of allegations, then the restoration of the license is a matter of right.

6. The said argument of learned counsel for the petitioner is not acceptable as a perusal of the proviso of Clause 14, *ibid*, leaves no

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manner of doubt that it is the discretion of the Licensing Authority to re-issue the license. The word used in the proviso is that the Licensing Authority 'may' re-issue the license and the same cannot be read as 'must'.

7. After hearing the learned counsels for the parties, examining the available record qua the inquiry proceedings, subsequent show cause notices, reply filed thereto and the cancellation order which was challenged in appeal and upheld vide Appellate Order dated 19.03.2015 (Annexure P-4), wherein both the authorities i.e. the Licensing Issuing Authority and the Appellate Authority, the petitioner was found negligent in running the ration depot.

8. In view thereof, there is no scope of interference in the finding of facts recorded by both the authorities below and hence the present writ petition is dismissed with no order as to costs.

April 08, 2019
smriti

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No