

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.25763 of 2019

Prabhu Narayan @ Prabhunarayan Ray, Son of Ramprasad Ray, Resident of
Village- Baraitha, P.S.- Chiraya, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna.
2. The District Magistrate-cum-Collector, District- East Champaran, Motihari.
3. The District Supply Officer, Motihari, District- East Champaran, Motihari.
4. The Sub-Divisional Officer, Sikarhana, Dhaka, District- East Champaran, Motihari.
5. The Block Supply Officer-cum-Block Development Officer, Dhaka, District- East Champaran, Motihari.
6. The District Programme Officer, East Champaran, Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Vikash Kumar Pankaj
For the Respondent/s : Mr.S.Raza Ahmad (AAG-5)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 13-02-2020 The present writ petition has been filed for quashing the order dated 14.09.2019 passed by the Sub-Divisional Officer, Sikarhana, Dhaka, District-East Champaran, whereby and whereunder the license of the P.D.S. Fair Price Shop of the petitioner bearing No. 62 of 2007-08 has been cancelled only on the ground that the shop was closed on one day i.e. 12.06.2019.

The learned counsel for the petitioner has referred to a judgment reported in **2012(3) PLJR 583 (Turant Lal Paswan vs. The State of Bihar & Ors)**, paragraph nos. 2 to 5 are reproduced herein below:-

“2. The petitioner was the licensee of a fair price shop at village-Maniyari, Block-



Bahadurpur, District-Darbhanga granted under the 2007 Order. The license granted to the petitioner has been cancelled on 26th April, 2010 on the premise that at the time of spot inspection on 15th January, 2010 the shop was closed. The petitioner had closed the shop to attend his ailing family member in the hospital. The order also reflects that the petitioner had a controversial and blotted history.

3. The petition is contested by the State Government. A counter affidavit has been filed. The affidavit on record does not disclose any untoward incidence in the past. The show cause notice was issued on 15th January, 2010 in respect of as many as eight allegations made against the petitioner. However, only on one allegation of closing the shop on 15th January, 2010 the order of cancellation of license has been made.
4. We find that admittedly the petitioner did close the shop on the particular day. Though, the action of keeping the shop closed on one particular day was in breach of the terms and conditions of the license and may not be justified, was not such grave violation that would entail cancellation of license.



5. For the aforesaid reasons, this writ application is allowed. Order dated 26th April, 2010 made by the Sub-Divisional Officer, Sadar Darbhanga is quashed and set aside. The legal consequences shall follow.”

Per contra, the learned counsel for the petitioner has not disputed the law laid down by this Court in the case of Turant Lal Paswan (supra) and the fact that in the present case also the shop was closed only on one day and that too on account of illness of the son of the petitioner.

Having regard to the facts and circumstances of the case and considering the law laid down by the learned Division Bench of this Court in the case of Turant Lal Paswan (Supra), I deem it fit and proper to quash the order dated 14.09.2019 passed by the Sub-Divisional Officer, Sikarhana, Dhaka, District-East Champaran.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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