

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23505 of 2018

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Ajab Lal Yadav Son of Late Prithwi Chandra Yadav Resident of Village-
Rikhiyara Rajdah,P.O. Ramghatta,P.S. Katoria,Distt.-Banka

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector,Banka,Distt.-Banka
3. The Sub-Divisional Officer,Banka,Distt.-Banka

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajeev Kumar Labh, Adv.
For the Respondent/s	:	Mr. U.P. Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 16-03-2021

Heard learned counsel for the parties.

In this case, the petitioner is challenging the order contained in Memo No. 307 dated 20.2.2015 passed by the Sub-Divisional Officer, Banka, whereby and whereunder, the license of the Fair Price Shop bearing No. 01/09 has been canceled assigning reason that at the time of joint inspection, the shop was found closed. The petitioner filed an appeal being Appeal Case No. 132 of 2015-16 before the Collector, Banka but, the same was rejected by the appellate authority vide order dated 18.5.2018 and claiming that both the orders suffer from irregularity, requires interference of this Court.

Learned counsel for the petitioner submits that on the particular date of inspection i.e. on 3.2.2015, the shop was found



closed and the same cannot be treated gross irregularity which would entail the cancellation of the license.

The short fact of this case is that the petitioner is a license holder for running Fair Price Shop issued under the Bihar Fair Price Shop Order, 2007. The Block Development Officer, Banka made a joint inspection on 3.2.2015 and found the shop closed without any intimation or displaying in the notice board. A show-cause notice was issued to the petitioner which he replied making a statement that he had gone to offer Puja to Deogarh but, while returning, he felt stomachache, led to his admission in the hospital which is the reason for failure to open the shop. Neither the S.D.O., Banka nor the appellate authority accepted the plea of the petitioner.

Learned counsel for the petitioner submits that it is a single day instance that the shop has been found to be closed and the same cannot be treated to be a gross wrong committed by the petitioner when he has explained the reason for not opening the shop and, thus, any punishment other than cancellation of license could be passed but, the cancellation of license is a punishment disproportionate to the charge leveled against the petitioner and has placed reliance on the order of the Division Bench of this



Court passed in the case of CWJC No. 10213 of 2010 disposed of on 22.06.2012.

Learned counsel for the State submits that there are other several irregularities found in running the shop by the petitioner and, as such, it requires fresh initiation of proceeding against the petitioner but, the present case is confined to the closure of the shop and the other charges leveled against the petitioner are not the subject matter of this writ application and also there is no show-cause for the same.

In that view of the matter, the order contained in Memo No. 307 dated 20.2.2015 passed by the Sub-Divisional Officer, Banka as well as the appellate order dated 18.5.2018 are set aside and the consequences will follow.

Accordingly, this writ application stands allowed.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.03.2021
Transmission Date	

