

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4684 of 2022

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Anirudh Prasad Son of Late Parma Ram Resident of Village-Jhengai Dihra,
Village Panchayat-Bahuan, Police Station-Bhabhua, District-Kaimur at
Bhabhua.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secrerary, Food and Consumer Protection Department, Govt. of Bihar at Patna.
2. The District Magistrate, Kaimur.
3. The Sub Divisional Officer, Bhabhua, Dist-Kaimur.
4. The Block Supply Officer, Bhabhua, Dist.-Kaimur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binay Kumar
For the Respondent/s : Mr.S.Raza Ahmad (Aag5)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

2 23-06-2022 Heard the learned counsel for the petitioner and the

learned counsel for the State.

The P.D.S. license of the petitioner was cancelled
after his explanation with respect to his having been made
accused in a criminal case involving breach of provisions of
E.C. Act, was rejected.

The aforesaid order of cancellation of license of the
petitioner has been sustained by the Appellate Authority.

Mr. Binay Kumar, the learned Advocate submits that
the accusation against the petitioner in the F.I.R. could not be



established and final report false was submitted in his favour under Section 173 of the Code of Criminal Procedure. Mr. Kumar, therefore, submits that this would be a good enough ground for setting aside the orders cancelling the license of the petitioner and the appellate order sustaining the same and the license of the petitioner ought to be restored.

Clause 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as “Control Order, 2016”) clearly specifies that in the event of the lodging of an F.I.R. against a licensee under the Essential Commodities Act, 1955 or for any other criminal case and in the event of such licensee being sent to jail or his going fugitive, his license is to be suspended in the first instance with immediate effect and after serving show-cause notice to him to explain his cause, a final lawful action is to be taken against him within a period of 180 days, as far as possible.

If the license is cancelled on account of conviction of the licensee in a criminal case, the provisions contained in clauses 29 of the Control Order, 2016 would apply.

Clause 29 of the Control Order, 2016 specifies that in the event of a licensee being convicted by a competent court for violation of an order made under Section 3 of the Essential



Commodities Act, 1955 or for any other offence, his license shall be cancelled by a written order.

The proviso to clause 29 of the Control Order, 2016 however, mandates that if the conviction is annulled in appeal or revision, the license could be restored by the Licensing Authority if such licensee, within one month from the date on which such annulment order is passed, makes a written representation to the Licensing Authority with attached certified copy of such order and with payment of license fee equal to a new license fee through treasury challan.

The petitioner cannot take resort to the aforesaid provision contained in proviso to clause 29 of the Control Order, 2016 as his license has not been cancelled on account of conviction in a criminal case. In a separate proceeding which was initiated, though after his having been made accused in a criminal case, the license of the petitioner was cancelled.

In the case of the petitioner, therefore, the provisions contained in clause 28 of the Control Order, 2016 would apply and the petitioner cannot take advantage of provisions contained in clause 29 of the Control Order, 2016.

The only option left for the petitioner is to challenge the order of the cancellation of his license and the appellate



order sustaining the same before the Revisional Authority.

Should a revision application be filed by the petitioner within a period of 30 days, the Revisional Authority shall take into account all the grounds raised by the petitioner including the fact that even the accusation against the petitioner in the F.I.R which was lodged against him in the beginning could not be established and a final report was submitted under Section 173 of the Code of Criminal Procedure, and a final order shall be passed within a period of 60 days.

However, before passing such order, the Revisional Authority shall provide reasonable opportunity to the petitioner to represent his cause and the order so passed shall contain reasons in support of such decision.

The period of 60 days within which the revision application has to be concluded would commence from the date when the memo of revision is filed.

The petition stands disposed of accordingly.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

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