

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8479 of 2021

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Lal Babu Singh, S/o Late Malagujar Singh, Resident of Village-Barwa (East),
P.S.-Aadapur, District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Collector, East Champaran at Motihari.
3. The Sub Divisional Officer, Raxaul, District-East Champaran.
4. The Block Supply Officer, Aadapur, District-East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Advocate
For the Respondent/s : Mr. S.Raza Ahmad, AAG-5

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

7 01-04-2022 The petitioner's licence to run a fair price shop has been cancelled by an order dated 07.09.2019, passed by the Sub-Divisional Officer, Raxaul-cum-Licensing Authority. The petitioner's appeal against the said order of the Licensing Authority has been rejected by the District Magistrate-cum-Appellate Authority by an order dated 18.09.2020.

2. It was alleged against the petitioner that the PDS shop in question was inspected on 19.06.2019 when the same was found closed and the petitioner was found absent from the



shop premises. The notice board was not installed at the shop and on demand the son of the petitioner failed to produce the stock register for inspection.

3. The petitioner was put to show cause notice with the allegation of irregularities in running the PDS shop, whereafter the impugned order cancelling the petitioner's licence came to be passed. It is the petitioner's case that the decision to cancel the licence on the allegation of single aberration of closure of shop on the date of inspection is unreasonable. It is also the petitioner's case that there is no allegation of any corrupt practices against him.

4. The facts asserted in the writ petition to the effect that it is a case of single aberration relating to closure of shop for which the extreme action of cancellation of licence has been taken have not been denied in the counter affidavit.

5. Learned counsel appearing on behalf of the petitioner has placed reliance on a Division Bench decision of this Court in case of ***Turant Lal Paswan vs. The State of Bihar & Ors.*** reported in ***2012(3) PLJR 583***, paragraph 4 of which reads as under :-

“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 licence and may not be justified, was not such grave violation that would entail cancellation of licence.”

6. Learned counsel appearing on behalf of the State of Bihar, on the other hand, has submitted that the petitioner ought to have availed the alternative statutory remedy by filing revision application under Rule 32(vi) of the Control Order, 2016, which the petitioner has not availed. He has secondly submitted that the fact that the petitioner's shop was found closed on the date of inspection is not in dispute and, therefore, there being violation of terms of licence, there is no illegality in the impugned order. He has thirdly submitted that it was though within the petitioner's knowledge that the shop would be inspected on the aforesaid date he did not ensure to keep open the shop for inspection. He has also submitted that the petitioner did not cooperate with the officials during course of inspection and for this reason also the impugned order does not require interference.

7. We are persuaded with the submission made on behalf of the petitioner that it is a case of single aberration based on which the action of cancellation of the petitioner's licence has been taken. The petitioner's case, in our opinion, is covered



by the Division Bench decision in case of **Turant Lal Paswan** (supra).

8. As the pleadings are complete with the filing of the counter affidavit and the material fact that on the allegation of single aberration relating to closure of shop on a particular day the licence has been cancelled is not in dispute, we do not consider it fit and proper to relegate the petitioner to the jurisdiction of the Revisional Authority at this stage, in the facts and circumstances of the present case.

9. This application is allowed for the reasons above. The impugned orders dated 07.09.2019 and 18.09.2020 are quashed. The consequence of quashing of the impugned orders shall follow.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

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