

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 3911 of 2021

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RAJIV KUMAR son of Late Shiv Ratan Prasad, Resident of Village- kohra,
P.S.- Makhdumpur, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply Department, Government of Bihar, Patna
2. The District Magistrate-cum-Collector, Jehanabad
3. The Sub-Divisional Officer, Jehanabad.
4. The Block Supply Officer, Block- Makhdumpur, District- Jehanabad

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr S K Lal,
Mr Pritish Kumar Lal, Advocates

For the Respondent/s : Mr AC to SC IV

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CORAM: HONOURABLE MR JUSTICE CHAKRADHARI SHARAN SINGH
and
HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 24-01-2022

This case has been taken up for online hearing through video-conference because of COVID 19 pandemic restrictions.

2 Heard learned counsel for the petitioner and the respondents.

3 The petitioner's father Shiv Ratan Prasad was granted licence to run a Public Distribution System (for brevity, *PDS*) shop



under Bihar Targeted Public Distribution System (for brevity, *BTPDS*) (Control) Order, 2016. The said licence was cancelled by the licensing authority by an order dated 31.08.2017. He had preferred an appeal against the said order of the licensing authority giving rise to Appeal Case No 16/DM of 2018 before the Collector, Jehanabad in the light of an observation made by this Court in the order dated 10.04.2018 passed in CWJC No 13801 of 2017. The said appeal came to be dismissed on 23.07.2019. The petitioner's father, thereafter, did not assail the said order of the appellate authority. It is stated in this application that the petitioner's father Shiv Ratan Prasad died on 27.03.2020. Nearly one year after his death, the present writ application has been filed seeking quashing of the order of cancellation of licence and the order of the appellate authority upholding the order of cancellation of licence.

4 Mr S K Lal, learned counsel appearing on behalf of the petitioner has submitted that the impugned order cancelling the petitioner's licence was per se illegal inasmuch as the licensee was not given any opportunity of hearing. He has further submitted that the appellate authority also failed to examine the relevant issues, raised before it.



5 In response to the Court's query as to whether the cause of action still survives after death of the original licensee, learned counsel for the petitioner has submitted that since the orders are per se illegal, the petitioner can maintain this writ application to assail the said order so as to take advantage of the provision under Rule 9 of the BTPDS (Control) Order, 2016 which provides for grant of licence on compassionate basis.

6 In our opinion, this writ application has no merit for more than one reasons. Firstly, in our considered opinion, the petitioner cannot be permitted to question the correctness of cancellation of licence upon the death of original licensee. The cause of action, in our opinion, did not survive upon the death of the original licensee. Secondly, we have perused the order passed by the licensing authority whereby the petitioner's father's licence was cancelled. The said order has dealt in detail with the materials available on record, before cancellation of the licence. It also appears from the said order that the licensee was given an opportunity to submit his explanation which he had submitted. The plea that the said order was in violation of principles of nature justice, in the Court's opinion, is not sustainable at all.

7 The order of the appellate authority also deals with the points which were taken by the original licensee.



8 In our view, for the aforesaid reasons, this application
deserves to be dismissed and is dismissed accordingly.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.01.2022
Transmission Date	NA

