

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6750 of 2023

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Jageshwar Yadav Son of Budhan Yadav Resident of Village- Kiyakhap, P.S.-
Rafiganj, Block- Riyaganj, District- Aurangabad ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Gaya.
3. The District Magistrate, Aurangabad.
4. The Sub Divisional Officer, Aurangabad.
5. The Block Supply Officer, Rafiganj, Aurangabad. ... Respondents

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Appearance :

For the Petitioner : Mr.N.K. Agrawal, Sr. Adv. with
M/s Diksha Kumari & Kumar Rajdeep, Advs.
For the Respondents : Mr.Vijay Kumar Sinha, AC to AAG V

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

10 28-11-2023

Heard the learned counsel for the parties.

2. The present writ petition has been filed for the
following reliefs :

“For issuance of a writ in the nature of Certiorari for quashing the Order dated 09.02.2023 passed in Supply Revision No.75/2022 by the Divisional Commissioner, which was filed against the order of the District Magistrate, Aurangabad, dismissing the appeal by order dated 22.04.2022 Supply Appeal No.28/2022 filed after order dated 12.01.2022 of the Sub- Divisional Officer Aurangabad, by which P.D.S license No. 10/R/1993 of the petitioner was cancelled are liable to be set aside as same have been passed in violation of the principles of Natural Justice, in as much as the Impugned Orders have been passed without considering the facts and circumstances of the case.”

3. Learned counsel for the petitioner submits that the
solitary ground given in the show cause notice dated 19.07.2021



vide Letter No. 439/Aa for cancelling the PDS licence of the petitioner was that a First Information Report (F.I.R.) bearing Rafiganj P.S. Case No. 192 of 2020-2021 had been instituted against the petitioner. Similarly, the impugned order has been passed on the sole ground of institution of the aforesaid FIR against the petitioner.

4. Learned counsel for the respondents appears and has been heard.

5. Having heard the parties and on consideration of the materials on record, this Court finds merit in the writ petition. A perusal of the PDS. (Control) Order, 2001 read with Rule 7 of the notification in G.S.R. No. 1 dated 20.02.2007 makes it clear that mere institution of a First Information Report would not constitute a valid ground for cancellation of the PDS license. This view finds support from the decision of this Court in **Umesh Ram vs. the State of Bihar & Ors.**, reported in **AIR 2014 Patna 113** as well.

6. In view of the above, the impugned order dated 09.02.2023 (Annexure-P/5) is hereby quashed and consequently the appellate order dated 22.04.2022 (Annexure-P/4) is also set aside.

7. Needless to say, supplies to the petitioner shall be



restored without delay.

8. It is made clear that, in case, the petitioner is subsequently convicted in the criminal case instituted against him, thereafter the authorities are free to take necessary action in accordance with law.

9. With the above directions, the Writ Petition stands allowed to the extent indicated.

(A. Abhishek Reddy , J)

Shamshad/-

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