

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15730 of 2017

=====

Vinod Gami S/o Late Raj Kumar Gami, R/o Village- Rampatti, P.O.-
Harkhauli, via-Katra, P.S.- Gaighat, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Collector Cum District Magistrate , Muzaffarpur.
3. The Sub Divisional Officer Cum Licensing Authority, East Muzaffarpur,
Muzaffarpur.
4. The District Supply Officer, Muzaffarpur.
5. The Block Supply Officer, Gaighat, Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Pawan Kumar Singh, Adv.
For the Respondent/s : Mr. S. Raza Ahmad-Aag5

=====

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

Date : 21-08-2023

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

*“(1) To quash the order bearing
memo No. 1328 of 2010 passed by the Sub
Divisional Officer cum Licensing Authority,
East Muzaffarpur whereby and where under
license of the petitioner's P.D.S. shop bearing
No. 01/06 has been cancelled with immediate
effect.*

*(II) to quash the order dated 09-08-
2012 passed in case 2012 NO. 25/ PDS/2008-
09 passed by the District Magistrate,
Muzaffarpur whereby and where under he has
dismissed the appeal filed by the petitioner and
affirmed the order dated 18-10-2008 passed by
the S.D.O. East, Muzaffarpur*



(III) To quash the order dated 11-08-2017 passed in PDS Revision Case No. 76/2017 by the Divisional Commissioner, Muzaffarpur whereby and where under he has dismissed the said Revision case filed by the petitioner on the ground of its maintainability.

(IV) To direct the respondents to Restore the license of the petitioner bearing number 01/2006 taking into the consideration that shop in question is the only means of earning his livelihood..

(V) To any other relief/s to which the petitioner is entitled in the facts and circumstances of the case.”

2. Learned counsel for the petitioner has stated that the PDS license of the petitioner has been cancelled on frivolous and legally untenable ground. That the cancellation of the PDS license of the petitioner is without any legal basis and contrary to the provisions of the Act. Further, it is stated that even though the petitioner has raised several grounds in the appeal as well as the revision filed by him, the grounds were not adverted to by both the appellate as well as the Revisional Authority and even the SDO i.e. Sub-Divisional Officer, who has passed the order cancelling the PDS license of the petitioner has not adverted to the show cause reply given and cancelled the license of the petitioner in a mechanical manner. Therefore, learned counsel for the petitioner



has prayed this Hon'ble Court to allow the present writ petition and restore the license of the petitioner.

3. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the writ petition. Learned counsel has stated that after the appeal was disposed off, the petitioner has approached this Hon'ble Court by way of CWJC 468 of 2013 (Annexure-08) wherein this Hon'ble Court duly taking into consideration the facts and circumstances and also the orders passed by both the primary as well as the Appellate Authority has dismissed the said CWJC by order dated 11.01.2013. Learned counsel has stated that in case the petitioner was aggrieved by the order dated 11.01.2013 of the CWJC No. 468 of 2013, he ought to have filed an LPA challenging the findings recorded therein but the petitioner for reasons but known to him has failed to do so and the order dated 11.01.2013 passed in CWJC No. 468 of 2013 has become final. That pending CWJC No. 468 of 2013, the petitioner has also preferred revision before the Revisional Authority and the Revisional Authority has dismissed the Revision and the same is impugned in the present CWJC. Learned counsel has stated that this Hon'ble Court vide order dated 11.01.2013 in CWJC No. 468 of 2013 has already dealt with the matter and passed orders on merits and the said



order has become final. Therefore, the challenge of the petitioner to the order passed by the Revisional Authority more so after the order dated 11.01.2013 passed in CWJC No. 468 of 2013 has become final is not maintainable. This Court in CWJC No. 468 of 2013 has elaborately dealt with the order of the Appellate as well as the primary Authority i.e. SDO and confirmed the said order, therefore, the filing of the Revision by the petitioner challenging the order of the Sub-Divisional Officer and the Appellate Authority is not maintainable and the Revision filed by the petitioner was rightly dismissed. Therefore, learned counsel for the respondents has prayed this Hon'ble Court to dismiss the present writ petition.

4. Admittedly, in the present case the license of the petitioner has been cancelled vide order dated 18.10.2008 (Annexure-4) by the Licensing Authority and, thereafter, aggrieved by the cancellation of the license, the petitioner has preferred an appeal before the Collector/District Magistrate. The District Magistrate has dismissed the appeal filed by the petitioner vide order dated 09.08.2012 (Annexure-6), thereafter, the petitioner has approached this Hon'ble Court by way of CWJC No. 468 of 2013. This Court vide order dated 11.01.2013 in the above said CWJC has gone into the merits of the orders passed by both the Appellate as well as the Licensing Authority and passed an order upholding



the said two orders and dismissed the CWJC filed by the petitioner. The petitioner has not challenged the order dated 11.01.2013 passed in CWJC No. 468 of 2013 and the same has become final. Thereafter, during the pendency of the CWJC No. 468 of 2013, the petitioner has filed PDS Revision Case No. 76 of 2017 (Annexure 9) before the Revisional Authority i.e., Divisional Commissioner, Tirhut Division, Muzaffarpur and the same was dismissed by the Divisional Commissioner on 11.08.2017 aggrieved thereby the petitioner has filed the present writ petition.

5. A perusal of the order passed by this Hon'ble Court in CWJC No. 468 of 2013 reveals that this Hon'ble Court has elaborately dealt with both the Appellate Court order as well as the order passed by the Licensing Authority and held as under;

“There is no infirmity in the decision making process as far as opportunity of hearing is concerned. The order of cancellation adequately reflects that first the petitioner was provided more than one date to appear. He submitted photo copies of his own register subsequently and appeared for verification on the directions of the Supply Officer. The three infirmities noticed above have not been contested in the writ petition and do not appear to have been contested before the appellate authority. The submission on behalf of the petitioner that no one had appeared to complain and therefore there shall be a presumption for proper distribution of



foodgrains, does not Appeal to the Court in view of the findings of fact by the licensing authority affirmed by the appellate authority. The issue of appropriate distribution cannot be seen in isolation from the opinion of the licensing authority for absence of necessary entries in the distribution register with regard to the same. The respondents appear to have taken a holistic view on the totality of facts which cannot be stated to be per se arbitrary.

The impugned orders call for no interference.”

and dismissed the CWJC No. 468 of 2013. Once this Hon'ble Court has dealt with the appellate court order as well as the order passed by the Licensing Authority on merits and the order has become final, the filing of the Revision by the petitioner cannot be countenanced. The Revisional Authority has rightly dismissed the said revision filed by the petitioner. The finding of facts recorded by this Hon'ble Court in CWJC No. 468 of 2013 order dated 11.01.2013 has become final as the petitioner has not preferred any LPA against the said order, therefore, the impugned order passed by the Revisional Authority cannot be found fault with. Once this Court has passed an order in CWJC No. 468 of 2013 confirming the order passed by the Appellate as well as Licensing Authority the Revisional Authority cannot give a contra finding. Therefore, the dismissal of the revision is perfectly in consonance with the provisions of the Act and this Court does not



find any infirmity or illegality with the order passed by the Revisional Authority.

6. Therefore, the present writ petition is devoid of merits and the same is dismissed as not maintainable.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.08.2023.
Transmission Date	N/A

