

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9199 of 2023

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Brajkishor Singh, S/O Ganauri Singh, Resident of Village- Pachaura, P.S. Harnaut, District-Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Food and Consumer Protection Department, Government of Bihar, Old secretariat, Patna.
2. The District Magistrate, Nalanda.
3. The SDO, Biharsharif, Nalanda.
4. The B.D.O-cum-Block Supply Officer, Harnaut, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Anand, Advocate.
Mr. D. N. Tiwary, Advocate.

For the Respondent/s : Mr. U.P. Singh, SC to SC-4

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

2 25-09-2023 Heard learned counsel for the parties.

2. The present Writ Petition has been filled for the following reliefs:-

“(i) Dated 30.11.2022 passed by A.D.M-cum- Additional District Magistrate, Nalanda in supply appeal No. 04/2022 filed against the order of cancellation of PDS License by the S.D.O. dated 06.12.2021 whereby and whereunder the appeal was dismissed and affirming the order of S.D.O Biharsharif.

(ii) Order dated 6.12.2021 passed by S.D.O Biharsharif contained in Memo No. 1429 whereby and whereunder the License granted to the



petitioner being License No. 58/2016 for carried out the business of a Public Distribution shop in panchayat Pachaura, Block-Harnaut, within the District-Nalanda was cancelled basically on the ground that the stock of the petitioner found in two place for which Harnaut P.S. Case No. 421/2021 was lodged on 11.9.2021.

(iii) Pass such other order/s as your Lordship may deem fit and proper in the facts and circumstances of the case including the order of starts of allotment.

2. Learned counsel for the petitioner submits that the solitary ground given in the show cause notice dated 18.09.2021 vide Memo No. 687 for cancelling the PDS licence of the petitioner was that an First Information Report (F.I.R.) bearing Harnaut P.S. Case No. 421 of 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.

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

4. 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 licence. This view finds support from the decision of this Court in Umesh Ram vs. The State of Bihar and others, AIR 2014 Patna 113 as well.

5. In view of the above, the impugned order dated 06.12.2021 (Annexure-5) is hereby quashed and consequently the appellate order dated 30.11.2022 (Annexure-6) is also set aside.

6. Needless to say, supplies to the petitioner shall be restored without delay.

7. 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.

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

(A. Abhishek Reddy , J)

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