

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10649 of 2023

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Jai Nath Prasad Son of Shivgulam Saw, Resident of Village- Lachhmanpur,
P.S.- Bihta, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Sub Divisional Officer, Danapur, Patna.
4. The Block Supply Officer, Bihta, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Rajdeep, Adv.
For the Respondent/s : Mr. Arvind Ujjwal (Sc4)

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

2 18-10-2023

Heard the learned counsels for the parties.

The present writ petition has been filed for the
following relief(s):-

“i. For issuance of a writ in the nature of Certiorari for quashing the Order dated 06.06.2023 (Annexure-4) passed by the SDO, Danapur, Patna whereby and where under the Public Distribution License of the Petitioner bearing License No.45/2015 has been cancelled on 06.06.2023 because at the time of spot inspection i.e. on 10.04.2023 the shop of the petitioner was found closed.

ii. For holding and declaring the Order dated 06.06.2023 passed by the SDO, Danapur, Patna liable to be set-aside as same has been passed in violation of the principles of Natural Justice, in as much as the Impugned Order has been passed without considering the reply of the petitioner.

iii. For that even it is accepted that the shop of the petitioner was closed for one day the same is not sufficient ground to cancel the PDS license in view of law laid



down by a D.B. of this court reported in 2012 (3) PLJR, 583.

iv. For issuance of any other relief or relief(s) for which the petitioner is entitled for.”

3. Learned counsel for the petitioner has stated that the ensuing the present writ petition is squarely covered by the judgment of this Hon'ble Court passed in CWJC No. 10213 of 2010 dated 22.06.2012. Learned counsel has further stated that on the day of inspection i.e. 10.04.2023, the shop of the petition was closed as he was suffering from old age ailments and had gone for treatment. Learned counsel has further stated that the license of the petitioner cannot be cancelled on such a trivial ground. Further, learned counsel has stated that the petitioner was granted license way back in the year 2016 and there is no complaint of any sort against the petitioner till date. That even the show cause notice issued to the petitioner also does not disclose that there are any complaints against the petitioner except for the fact that the shop of the petitioner was closed on the day of inspection for the aforesaid reasons.

4. *Per contra*, learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner has an alternative and efficacious remedy of filing an appeal before the District Magistrate. Further, it is stated that the



petitioner without filing an appeal has straightaway approached this Court by way of the present writ petition and the same cannot be permitted and, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the impugned order shows that the only allegation against the petitioner is that on the day of inspection i.e. 10.04.2023, the shop of the petitioner was closed except the above allegation, there are no other allegations or any contraventions of other provisions of the Act. This Court in CWJC No. 10213 of 2010 dated 22.06.2012 has held that the closure of a shop for a particular day cannot be such a grave violation that could entail the cancellation of the license.

6. Having regard to the above mentioned facts and circumstances and law laid down by this Hon'ble Court in the above mentioned case, the present writ petition is allowed and the order dated 06.06.2023 is set aside. The legal consequences of setting aside the order of cancellation shall follow.

7. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

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