

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1231 of 2023

Paras Nath Singh Son of Late Ramkripal Singh Resident of Village- Agnni,
P.S.- Daudnagar, District- Aurangabad ... Petitioner

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Divisional Commission Magadh Range, Gaya.
3. The Collector-Cum-District Magistrate, Aurangabad.
4. The Sub-Divisional Officer, Daudnagar, Aurangabad.
5. The Block Supply Officer, Daudnagar. ... Respondents

Appearance :

For the Petitioner : Mr.Santosh Kumar Pandey, Adv.
For the Respondents : Mr.S. Raza Ahmad (Aag5)

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

4 11-08-2023 Heard the parties.

2. The petitioner challenges the order of Public Distribution System Licence No. 09/D/1990 which has been suspended by Memo No. 03, dated 16.06.2017 by the Licensing Authority, Subdivisional Officer, Daudnagar, Aurangabad. Subsequently, his Public Distribution System licence has been cancelled by Memo No. 1248, dated 31.08.2017 by the Licensing Authority, Subdivisional Officer, Daudnagar, Aurangabad. The appeal filed by the petitioner being P.D.S. Appeal Case No. 37 of 2017 has affirmed the cancellation order vide order, dated 23.07.2018, by the Collector-cum-District Magistrate, Aurangabad. Thereafter the revision filed by the petitioner being Revision Case No. 67 of 2021 has also being



dismissed by the Divisional Commissioner vide order, dated 15.09.2022. Assailing the above order the present writ petition is filed.

3. Counsel for the petitioner has stated that mere lodging of First Information Report (FIR) being Daudnagar P.S. Case No. 152 of 2017, dated 16.06.2017, under Section 7 of the Essential Commodities Act. The suspension of his licence in view of Clause 28 of the Bihar Targeted Public Distribution System Control Order, 2016, and the petitioner was issued show cause notice and for which the petitioner has filed his reply denying the allegation. Learned counsel has stated that the suspension of licence can only be done after lodging of First Information Report (FIR) and only if the petitioner is lodged in jail or turns fugitive but not otherwise. Counsel has stated that the petitioner has neither being lodged in jail nor turned fugitive and as a matter of fact the petitioner was already on anticipatory bail. Further it is stated that the suspension of license of the petitioner was done at the behest of the Superintendent of Police, Aurangabad, who vide letter, dated 16.08.2017 has recommended for cancellation of the license which is not only illegal but contrary to the provisions of the Act. He submits that since the two postulates of being in jail or



turning fugitive has not been satisfied, the suspension of licence merely on the ground of lodging of First Information Report (FIR) is not sustainable in law as held by this Court in the order, dated 07.03.2017, passed in C.W.J.C. No. 16733 of 2016 (Radhe Krishna Vrs. the State of Bihar & Ors.) and other judgments of this Court. Counsel has further submitted that if the suspension order is held to be bad in law the consequent cancellation order, the appellate order and the revisional order also gets vitiated as when the substratum suffers infirmity, the super structure would not cure such infirmity and prayed for allowing the present writ petition.

Though the counsel for the respondents has tried to justify the order impugned, he has not disputed the legal proposition as laid down by this Court in the judgment relied by the counsel for the petitioner, i.e., C.W.J.C. No. 16733 of 2016, dated 07.03.2017.

4. Under the above facts and circumstances, the order, dated 16.06.2017, suspending the licence of the petitioner, the order, dated 31.02.2017, cancelling the license, both passed by the Licensing Authority, i.e., the Subdivisional Officer, Daudnagar, Aurangabad, the appellate order, dated 23.07.2018 passed by the District Collector, Aurangabad, in P.D.S. Appeal



Case No. 37 of 2017 and the order of the Revisional Authority in Revision Case No. 67 of 2021, dated 15.09.2022 are set aside. Consequently the supplies have to be restored to the petitioner forthwith. However, the respondent authorities are at liberty to take action against the petitioner in accordance with law.

5. Writ application is, accordingly **allowed**.

(A. Abhishek Reddy , J)

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