

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1591 of 2018

In
Civil Writ Jurisdiction Case No.17866 of 2015

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Lalan Prasad Singh Son of late Dharamdeo Narain Singh resident of Village-
Jaitiya, P.s Konch, District Gaya.

... .. Appellant/s

Versus

1. The Secretary, Food And Civil Supply, Govt. Of Bihar and Ors
2. The State of Bihar through the Collector, Gaya District Gaya.
3. The Sub-Divisional Officer, Tekari, District Gaya.
4. The District Supply Officer, Gaya.
5. The Block Supply Officer Tekari Gaya District Gaya.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ram Kumar Singh
For the Respondent/s : Mr. S. Raza Ahmad (Aag5)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-10-2023

The challenge in the writ petition, from which judgment the appeal arises, was against the cancellation of a license to run a Public Distribution System (PDS) Shop. The petitioner, a licensee, admittedly had not opened the shop between 30.03.2011 to 20.01.2012 for alleged reason of being under treatment in Bangalore. The petitioner's license was cancelled on 24.12.2011 and an appeal filed also was



unsuccessful. A delayed revision was rejected on the ground of limitation. The learned Single Judge found that the petitioner had not diligently pursued his remedies, unable to show any sufficient cause for the delay occasioned in filing the revision, no categorical stand taken as to non-service of notice upon the petitioner and no evidence produced to show that he had been undergoing continuous treatment in Bangalore for the entire duration between April to December, 2011.

2. Learned counsel for the appellant before us submitted that he had intimated the S.D.O. about his absence and he had also placed a board showing that the PDS shop is closed. It is also pleaded that the appellant is a senior citizen, who has no other means of livelihood.

3. We are not convinced that the ground stated before us of the intimation given to the S.D.O. or the closure notice displayed in the shop room or even the age of the appellant, are valid grounds to be considered in the case. The petitioner, admittedly, had closed down the shop thus, denying distribution of ration to the persons, who are entitled to get it on subsidized prices. The appellant, as has been found by the learned Single Judge, did not produce any document to substantiate his continuous treatment. The prescription produced



as Annexure-3 only indicates intermittent consultations made and not an in-patient treatment for the period of absence. In fact, the petitioner's absence even for the reason of a medical emergency, cannot result in closing down of the PDS shop. We find absolutely no reason to interfere with the cancellation.

4. It is also to be noticed that the revision was for the delay occasioned, which also has been reckoned as a ground to reject the writ petition.

5. The further contention taken by the appellant in the writ petition is relying on the decision of a Single Judge in connected writ petitions produced as Annexure-8. Therein, the question dealt with was as to whether the suspension of a license could be followed up with cancellation itself. The State contended that the suspension was pending cancellation. It was noticed by the learned Single Judge that such a measure was possible only under the Bihar Licensing Order of 1984 which was superseded by Bihar Control Order of 2001. As per the Control Order of 2001, the authority has to elect either of the two options, a suspension or cancellation, which has to be done at the initial stage. When a suspension of license is imposed as a punishment then there could be no further cancellation on the very same cause of action, was the finding. We find absolutely



no reason to apply the dictum in the aforesaid case since herein
there was a cancellation itself at the initial stage.

6. The appeal stands dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

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