

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2942 of 2024

Prabha Devi wife of Ishwar Mahto, Resident of Village-Aunta, P.S. Hathidah,
District-Patna ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector and District Magistrate, Patna.
3. The Sub Divisional Officer, Barh.
4. The Divisional Commissioner, Patna Division, Patna ... Respondents

Appearance :

For the Petitioner : Mr.Rajeev Kumar Labh, Adv.
For the Respondents : Mr.Vivek Prasad, GP VII with
Mr. Sudhanshu Bhushan, AC to GP VII

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

4 09-09-2024 Heard the parties.

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

A. For quashing and setting aside the order passed by the Sub- Divisional Officer, Barh vide Memo No. 575 dated 15/5/2017 whereby and where under license No. 240/16 of the petitioner's Fair Price shop has been cancelled with immediate effect on the ground that a case under section 7 of the EC Act. has been lodged against the petitioner and reply of show cause has not found satisfactory contained in Annexure 1 and quashing and setting aside the order dated 29/6/2022 passed by the learned Collector and District Magistrate, Patna in E.C. Appeal Case No. 256/2017-18 whereby and where under appeal filed by the petitioner against the cancellation order has been rejected contained in Annexure-5



B. A mandamus commanding the Respondents to restore the petitioner's license as before and to make allotment for the petitioner's shop,

C. Any other relief or reliefs for which petitioner may be found entitled in the fact and circumstances of the present case may be granted to him.

3. Learned counsel for the petitioner submits that the solitary ground given in the show cause notice vide Memo No. 421, dated 30.03.2017, for cancelling the PDS licence of the petitioner was that an First Information Report (F.I.R.) bearing Hathidah P.S. Case No. 14 of 2017 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.

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

5. 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.

6. In view of the above, the impugned order dated 15.05.2017 vide Memo No. 575 (Annexure 1) is hereby quashed and consequently the appellate order dated 29.06.2022 passed in E.C. Appeal No. 256 of 2017-18 (Annexure 5) is also set aside.

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

8. 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.

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

(A. Abhishek Reddy , J)

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