

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7728 of 2019

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Ramanti Devi, Wife of Late Shivnarayan Manjhi, Resident of Village-
Bishambharpur, P.S.- Bihta, District- Patna. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector, Patna, District- Patna.
3. The Sub-Divisional Officer, Danapur, District Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Adv.

For the Respondent/s : Mr. Arvind Ujjwal (SC4)

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

3 23-01-2024 Heard learned counsel for the parties.

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

“A. A certiorary for quashing and setting aside the order passed by the Sub-divisional Officer, Danapur and issued vide Memo No. 108 dated 23.01.2019 whereby and whereunder license of the petitioner’s Fair Price Shop bearing No. 93/16 has been cancelled contained in Annexure-1.

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 has stated that the authorities have issued show-cause notice alleging that the petitioner’s shop was found closed on the date of inspection i.e., on 16.08.2018. Even though the petitioner has given detailed explanation to the said show-cause notice, the authorities concerned have passed the impugned order cancelling the license of the



petitioner. Learned counsel further stated that the authorities seems to have inspected his shop on 30.11.2018 i.e., behind the back of the petitioner and the enquiry report relied by the Sub-divisional Officer while passing the impugned order has not been furnished to the petitioner. Learned counsel has further stated that closure of the shop for a single day cannot be a ground for cancellation of the license of the petitioner.

4. Learned counsel has relied upon the judgment of a Division Bench of this Court passed in ***CWJC No. 10213 of 2010*** dated 22.06.2012.

5. Learned counsel appearing on behalf of the respondents fairly submits that as per orders of the Division Bench of this Court passed in ***CWJC No. 10213 of 2010*** dated 22.06.2012, the license cannot be cancelled on the ground that the shop was closed on one particular day.

6. The Division Bench of this Hon'ble Court in ***CWJC No. 10213 of 2010*** dated 22.06.2012 has held as follows:-

***“We find that admittedly the petitioner did close the shop on the particular day. Though, the action of keeping the shop closed on one particular day was in breach of the terms and conditions of the license and may not be justified, was not such grave violation that would entail cancellation of license.*”**

7. Having regard to the above, the impugned order passed by the Sub-divisional Officer, Danapur (Annexure-1) is set aside. The license of the petitioner is directed to be restored and the petitioner



shall be supplied the monthly commodities for distribution to the consumers.

8. The entire exercise shall be completed as expeditiously as possible preferably within a period of four weeks from the date of receipt of a copy of this order.

9. In case, the authority feel that any action needs to be taken against the petitioner based on the enquiry report dated 30.11.2018, they are at liberty to do so strictly in accordance with law. The authority shall put the petitioner on notice duly enclosing a copy of the enquiry report and giving him reasonable opportunity for filing his explanation. After receipt of the explanation, a reasoned order shall be passed. The petitioner shall be given an opportunity of hearing. Any order passed shall be communicated to the party.

10. With the above directions, this Writ Petition is allowed to the extent indicated above.

(A. Abhishek Reddy , J)

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