

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10500 of 2024

Manoj Kumar Basak Son of Kalicharan Basak, Resident of Idgah Mohra,
P.O.- Moudho, P.S.- Kochadhaman, District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The Collector, Kishanganj.
3. The Sub-Divisional Officer-cum-Licensing Authority, Kishanganj.
4. The Senior Deputy Collector, District Legal Cell, Kishanganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Adv.
For the Respondent/s : Mr. Standing Counsel (3)

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

4 03-12-2024 Heard learned counsel for the parties.

2. The present Writ Petition has been filled for the following reliefs:-

“(i) For issuance of appropriate writ/writs, order/orders, direction/directions in the nature of certiorari for quashing and setting aside the order dated 26.12.2014 passed by the Learned Sub-Divisional Officer, Kishanganj cum-Licensing authority contained in memo No. 1160/Anu.Aa dated 27.12.2014 whereby and whereunder the license number of the petitioner 02KD/2011 of the petitioner Fair Price Shop has been cancelled with immediate effect on the ground that a case U/s 7 of the E.C Act has been lodged against the petitioner and further in the light of judgment dated 6.4.2023 passed by the



Sub-Divisional Judicial Magistrate, Kishanganj in which the petitioner has already been acquitted after facing trial on merits and further be please to restore the petitioner licence as before and to make allotment for the petitioner shop for which the petitioner has already submitted an application along with judgment of acquittal before the Licensing authority and even after that the license of the petitioner has not been restore.

(ii) For issuance of appropriate writ/writs, order/orders, direction/directions in the nature of mandamus commanding the respondents to restore the petitioner's license as before and to make allotment for the petitioner's shop."

3. Learned counsel for the petitioner submits that the solitary ground given in the show cause notice for cancelling the PDS licence of the petitioner was that an First Information Report (F.I.R.) bearing Kochadhaman P.S. Case No. 266 of 2014 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. Further it is stated by the learned counsel for the petitioner that the petitioner has been subsequently acquitted of all the criminal charges.



4. Learned counsel for the respondents has vehemently opposed the very maintainability of the present writ petition and has stated that the petitioner has an alternative and effective remedy of filing a revision under Section 32(vi) of the Bihar Targeted Public Distribution System (Control) Order, 2016. Learned counsel has relied on the judgment of the Division Bench of this Hon'ble Court reported in 2022 (3) PLJR, 175. However, it is to be noted that this Court has allowed many writ petitions where the cancellation has been made only on the basis of FIR being lodged against the PDS Dealer. Under normal circumstances, this Court could had relegated the parties to approach the revisional authority but having regard to the fact that the matter is fairly covered by the judgment of this Hon'ble Court passed in C.W.J.C. No. 8168 of 2023 which is based on the judgment of the court reported in AIR 2014 Patna 113 (Umesh Ram vs. The State of Bihar and others). This Court does not find any merit in the submissions made by the respondent and does not deem it necessary and proper to relegate the party to the revisional authority.

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

6. 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.

7. In view of the above, the impugned order dated 26.12.2014 is hereby quashed and set aside.

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

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

(A. Abhishek Reddy , J)

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