

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13087 of 2022

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Ram Awatar Sah Son of Late Sita Ram Gupta, Resident of Village - Barahari,
P.O.- Barhari, P.S.- Kargahar, Dist- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The District Magistrate-cum-Collector, Rohtas at Sasaram.
3. The Sub Divisional Officer-cum-Licensing Authority, Rohtas at Sasaram.
4. The District Supply Officer, Rohtas at Sasaram.
5. The Block Supply Officer, Karahgar, Rohtas at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Verma
For the Respondent/s : Mr. Arvind Ujjwal (Sc 4)

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

4 25-06-2024 Heard the learned counsel for the parties.

The present writ petition has been filed for the
following reliefs:-

“1) That this is an application praying for issuance of an appropriate writ/writs, order/orders, direction/directions for quashing the order dated-12.07.2020 passed by the Sub Divisional Officer Rohtas at Sasaram-cum licensing authority as contained in memo no.400 dated 12.07.2020 whereby and whereunder the learned S.D.O. has been pleased to cancel the fair price (PDS) shop licence of the petitioner bearing licence no.23/2007 with immediate effect and further for a direction for restoration of the licence of the petitioner inter-alia the following;

I. Impugned order cancelling the fair price shop licence of the petitioner on the basis of show cause notice issued to the petitioner without indicating about the proposed cancellation of the licence be declared as de hors the provisions of Bihar targeted P.D.S. (control) order, 2016 and



accordingly be quashed.

ii. Respondent District Magistrate-cum-Appellate authority's inaction in not disposing of the appeal filed by the petitioner within sixty days of its filing be highly deprecated and in view of the peculiar nature of the case being squarely covered by the judgement rendered by the Division bench of this Hon'ble Court passed in L.P.A. No. 499 of 2018 (Ram Bachan Ram Vs. The State of Bihar & anr). present case may be considered despite availability of alternative remedy of revision before the Divisional Commissioner and further taking into consideration the violation to the Statutory provisions and committed jurisdictional error, the order impugned cancelling the licence be quashed.

iii. Respondents be directed to restore the Petitioner's licence and allow him to run the fair price shop unhindered.

iv. Respondents be directed to grant all the consequential benefits to the petitioner for which he is legally entitled to in the facts and circumstances of the case.

V. Any other relief or reliefs be granted to the petitioner for which he is legally entitled to in the facts and circumstances of the case for the ends of justice."

3. Learned counsel for the petitioner submits that the solitary ground given in the show cause notice dated 15.04.2020 vide Memo No. 225 for cancelling the PDS licence of the petitioner was that the First Information Report (F.I.R.) bearing Karahgar P.S. Case No. 82 of 2020 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 12.07.2020 (Annexure-P/4) is hereby quashed.

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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