

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11935 of 2024

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Nagendra Kumar Bhagat Son of Sri Narayan Bhagat, resident of village-
Haribela, Block - Bathnaha, P.S. - Bathnaha, District - Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The District Magistrate Sitamarhi, District - Sitamarhi.
3. The Sub Divisional Officer cum Licensing Authority, Sitamarhi Sadar, District - Sitamarhi.
4. The Block Supply Officer, Block Bathnaha, District- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brij Bihari Tiwary, Adv.
For the Respondent/s : Mr. Standing Counsel (22)

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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) To issue a writ in the nature of “Certiorari” for setting aside the order dated 19.12.2022 passed in Supply Appeal Cae No. 85/2021 by Ld. District Magisrte, Sitamarhi affirming the order contained in memo No. 3/Mu date 17.01.2019 passed by Sub-divisional Officer, Sitamarhi, Sadar by which P.D.S. Dealership License of the petitioner has been cancelled.

(ii) To quash the order dated 17.01.2019 passed by the sub-divisional



officer Sitamarhi, Sadar (Respondent No. 3) by which he has cancelled the P.D.S. shop license of the petitioner bearing License No. 1/13 vide Memo No. 03/Mu.”

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 Bathanha P.S. Case No. 217 of 2018 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



17.01.2019 passed by the Sub Divisional Officer is hereby quashed and consequently the appellate order dated 19.12.2022 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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