

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13150 of 2024

Upendra Prasad Yadav S/o Late Ram Ayodhaya Prasad Yadav, Resident of
Village- Raghunathpur Bhelura, P.S.- Naubatpur, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Collector- cum- District Magistrate, Patna.
3. The Sub-Divisional Officer, Danapur, Patna.
4. The Block Supply Officer, Naubatpur, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Dhananjaya Nath Tiwari, Adv. Mr. Kumar Rajdeep, Adv.
For the Respondent/s	:	Mr. Mujtabaul Haque, Government Pleader 12

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

2 13-11-2024 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 in the nature of certiorari for quashing the order dated 28.03.2024 passed in BT PDS Control Revision Case No. 150/2021 passed by the Learned Divisional Commissioner, Patna, whereby and where under he has confirmed the order dated 23.07.2021 passed by the District Magistrate, Patna by which the statutory appeal was dismissed.

(ii) Further for quashing the appellate order dated 23.7.2021 passed in



E.C Appeal No. 38/2019-20 passed by the District Magistrate, Patna whereby and where under he has dismissed the appeal and affirmed the order dated 26.08.2019 contained in Memo No. 30/Mukhiyalay/Aa dated 28.8.2019 passed by the Learned S.D.O. Danapur -cum- Licensing Authority, Patna by which the license of the petitioner was cancelled.

(iii) Further for quashing the order dated 26.8.2019 contained A in Memo No. 30/Mukhiyalay/Aa dated 28.8.2019 passed by the Learned S.D.O. Danapur-cum- Licensing Authority by which the PDS license of the petitioner being License No. 10/2016 has been cancelled.

(iv) Further for issuance appropriate writ/order/direction in the nature of mandamus commanding the respondent to restore the license and supply of the petitioner.

(v) Further for issuance appropriate writ/order/direction in which the petitioner found to be entitled in the facts and circumstances of the case.”

3. Learned counsel for the petitioner submits that the solitary ground given in the show cause notice dated 07.03.2019 vide Memo No. 292 for cancelling the PDS licence of the petitioner was that an First Information Report (F.I.R.) bearing Naubatpur P.S. Case No. 81 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 28.08.2019 (Annexure-8) is hereby quashed and consequently the appellate order dated 23.07.2021 (Annexure-9) and the revisional order dated 28.03.2024 (Annexure-11) are 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)

Bhardwaj/-

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