

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.777 of 2024

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Madhusudhan Paswan @ Madhusudan Paswan Son of Bajo Paswan, Resident
of Village Musaharadih, P.S. - Chandan, District - Banka.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Adv.
For the Respondent/s : Mr. Standing Counsel 24

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

3 19-04-2024 Heard learned counsel for the parties.

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

*“A. For quashing and setting
aside the order passed by the Sub-
Divisional Officer, Banka vide Memo No.
02 dated 20/1/2015 whereby and where
under license No. 32/12 of the
petitioner’s Fair Price Shop has been
cancelled with immediate effect on the
ground that a case under section 7 of the
EC Act has been lodged against the
petitioner and reply of show cause has
not found satisfactory contained in
Annexure-1 and quashing and setting
aside the order dated 5/5/2017 passed by*



the learned Collector, Banka in 7 E.C. Appeal Case No. - 14/15-16 whereby and where under appeal filed by the petitioner against the cancellation order has been rejected contained in Annexure-7 and further in the light of order dated 10/4/2023 passed by the Sub-Divisional Judicial Magistrate, Banka in which the petitioner has already been acquitted after facing full flag trial on merit to restore the petitioner's license as before and to make allotment for the petitione'r's shop for which the petitioner has already been submitted an application along with order of acquittal before the licensing authority after that his license has not been restored.

B. A 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 dated 20.01.2015 vide Memo No. 02 for cancelling the PDS licence of the petitioner was that an First Information Report (F.I.R.) bearing Chandan P.S. Case No. 110 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 vide order dated 10.04.2023.

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 20.01.2015 (Annexure-1) is hereby quashed and consequently the appellate order dated 05.05.2017 (Annexure-7) is also set aside.

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

9. 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.

10. With the above directions, the Writ Petition stands



allowed to the extent indicated.

(A. Abhishek Reddy , J)

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