

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17873 of 2022

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Dharam Nath Prasad Son of late Luxman Rai residence of village- Karan Kudaria, Gram Panchayat- Karan Kudaria, Police Station- Mashrak, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Food and Civil Supply Department, Government of Bihar, Patna.
2. The Commissioner Saran at Chapra.
3. The District Magistrate Saran at Chapra.
4. The District Supply-Cum-Marketing Officer District- Saran.
5. The Sub Divisional Officer- Marhowrah, District- Saran.
6. The Circle Officer Under Block- Mashrak, District- Saran.
7. The Marketing Officer Under Block- Mashrak, District- Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shambhu Prasad Yadav, Adv.
For the Respondent/s : Mr. S. Raza Ahmad (Aag 5)

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

4 18-02-2025 Heard the learned counsel for the parties.

2. This writ petition has been filed for the following
relief(s):-

*“That by way of this writ application
petitioner creaves indulgence before this
Hon’ble court for issuance of appropriate
writ/writs, order/orders, direction/directions to
commanding the Respondents to quashing the
supply Revision no. 125/2019 order dated 25-
03-2022 passed by the Respondent No. 2, as
contained in (Annexure-1), as well as supply
Appeal no 75/2017 (85/12) order dated 02-07-
2019 passed by the Respondent N. 3, as*



contained in (Annexure-1) as well as supply Revision no. 150/2014 order dated 16-09-2017 passed by the Respondent No.2, as contained in (Annexure-6), as well as supply Appeal no. 85/12 order dated 09-01-2014 passed by the Respondent No. 3, as contained in (Annexure-5), as well as the order dated 14-07-2013 passed by Respondent no. 5 in memo no. 2202 as contained in (Annexure -4), where by an where uner the Respondent No.5 has pleased to cancelled the Petitioner's P.D.S. licence No. 22/2007 on the basis of shop of the petitioner was closed 10-01-2012 only one day, due to his wife was serious ill and admitted at Health care Hospital Chapra."

3. Learned counsel for the petitioner has stated that the PDS shop of the petitioner was inspected on 10.01.2012, on which date the petitioner had to take his wife to the doctor as she was seriously ill. Learned counsel has stated that except the sole ground that the shop was closed on the date of inspection, there is no other ground for cancelling the license of the petitioner. That the authority without taking into consideration that the closure of the shop on a single day is not such a grave violation of the provisions, which entails the authorities to cancel the PDS license of the petitioner. That the authority vide memo no. 2202 order dated 24.07.2013 had cancelled the P.D.S.



license of the petitioner. Learned counsel has stated that though the petitioner has challenged the order of cancellation by way of appeal, the same was dismissed by the appellate authority in a mechanical manner. Further, the revision filed by the petitioner also had to meet the same fate and was dismissed on 25.03.2022. Learned counsel has, therefore, prayed this Hon'ble Court to set aside the impugned orders passed on 02.07.2019 and 25.03.2022 by the appellate authority as well as by the revisional authority.

4. Learned counsel has relied on the judgment of the Division Bench of this Hon'ble Court passed in C.W.J.C. No. 10213 of 2010 in support of his case, wherein this Hon'ble Court has held as under:

“We find that admittedly the petitioner did close the shop on the particular day. Though, the action of keeping the shop closed on one particular day was in breach of the terms and conditions of the licence and may not be justified, was not such grave violation that would entail cancellation of licence.”

5. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that as on the date of inspection, the shop was closed by



petitioner without any intimation to the authority. As per the Control Order, the petitioner is obligated to inform the authorities concerned if he wants to keep the shop closed even for a single day, but in this particular case, the petitioner has failed to do so thereby putting the beneficiaries of the P.D.S. shop to great hardship. Learned counsel has prayed this Hon'ble Court to dismiss the present writ petition.

6. A perusal of the impugned orders passed by the revisional authority as well as the appellate authority reveal that the shop of the petitioner was inspected on 10.01.2012 on which date admittedly the shop was closed, except the above allegation against the petitioner, there is no other allegation.

7. Having regard to the fact that the shop was closed on account of the illness of the wife of the petitioner and in support of which the petitioner has enclosed the medical prescription. This Court is of the considered view that though there is a breach of terms and conditions of the license, the closure for one day is not such a grave violation that would entail the cancellation of the licence.

8. Having regard to the same, the impugned order passed by the Sub Divisional Officer dated 24.07.2013, the order dated 02.07.2019 passed by the appellate authority and the



order dated 25.03.2022 passed by the revisional authority are all set aside. As the matter pertains to the cancellation of the PDS shop in the year 2012, the authorities are directed to verify if the license has not being allotted to anyone and in case the same is not allotted to any person, the license of the petitioner shall be restored and the petitioner shall continue and supply the grains for distribution. Further it is stated that the original petitioner has died and unless and until the order of cancellation is set aside, the legal heirs of the original petitioner will not get the chance to apply under the compassionate appointment. The legal heirs, if they are so advised, are granted permission to apply under the compassionate appointment and if any such application is made, the same shall be dealt with in accordance with law.

9. With the above directions, the present writ petitions stands allowed to the extent indicated.

(A. Abhishek Reddy , J)

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