
(2012) 06 PAT CK 0038
In the Patna High Court
Case No : CWJC No. 10213 of 2010

Turant Lal Paswan

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 22-06-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 3 PLJR 583

Hon'ble Judges : R.M. Doshit, C.J.;Ahsanuddin Amanullah, J

Bench : Division Bench

Advocate : Ramesh Chandra Sinha, Dr. Binod Bihari Sinha and K.K. Sinha, for the Appellant; S.D. Sanjay and Akash Chaturvedi, for the Respondent

Final Decision : Allowed

Judgement

Hon"ble R.M. Doshit Chief Justice

1. This petition filed under Article 226 of the Constitution of India has been referred to the Division Bench by the learned Single Judge on 2nd December, 2010. The issue referred to is as to whether or not a licence of fair price shop issued under the Bihar Fair Price Shop Order, 2007 (hereinafter referred to as the 2007 Order") once suspended by a punitive measure can later be cancelled. The matter at issue is at large in Letters Patent Appeal No. 15 of 2011 and will be decided therein. The petitioner was the licensee of a fair price shop at Village-Maniyari, Block-Bahadurpur, District-Darbhanga granted under the 2007 Order. The licence granted to the petitioner has been cancelled on 26th April, 2010 on the premise that at the time of spot inspection on 15th January, 2010 the shop was closed. The petitioner had closed the shop to attend to his ailing family member in the hospital. The order also reflects that the petitioner had a controversial and blotted history.

2. The petition is contested by the State Government. A counter affidavit has been filed. The affidavit on record does not disclose any untoward incidence in

the past. The show cause notice was issued on 15th January, 2010 in respect of as many as eight allegations made against the petitioner. However, only on one allegation of closing the shop on 15th January, 2010 the order of cancellation of licence has been made.

3. 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. For the aforesaid reasons, this writ application is allowed. Order dated 26th April, 2010 made by the Sub-Divisional Officer, Sadar, Darbhanga is quashed and set aside. The legal consequences shall follow.