

(2023) 03 PAT CK 0042

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 1099 Of 2023

Vindeshwar Yadav

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 21-03-2023

Acts Referred:

Citation : (2023) 03 PAT CK 0042

Hon'ble Judges : Sanjeev Prakash Sharma, J

Bench : Single Bench

Advocate : Ravi Prakash, S. Raza Ahmad, Aniwul Haque

Final Decision : Allowed

Judgement

Heard learned counsel for the parties.

The petitioner, by way of the present writ petition, assails the order dated 08.12.2020 (Annexure-5), passed vide memo no. 280, by respondent no.3, the Sub-Divisional Officer, Jainagar, Madhubani, whereby the licence of PDS dealership of the petitioner was cancelled, as well as the order dated 05.07.2022 (Annexure-7), passed in Supply Appeal Case No. 165 of 2022, by respondent no.2, the District Magistrate, Madhubani, whereby the appeal preferred against the order of licensing authority has been affirmed.

The licence of the PDS shop of the petitioner has been cancelled on the basis of alleged complain of black marketing for which it is stated that the FIR was registered against the petitioner.

Learned counsel for the petitioner submits that the FIR was registered on 22nd of July, 2020 by the In-charge Block Supply Officer, Jainagar wherein he states that with the help of local villagers, from a bullock cart, 18 bags of rice were seized alleging the same to be of PDS shop, whereupon the concerned officer went to the concerned PDS shop belonging to the petitioner and verified the stock which was found to be in order. Thereafter, he filed a complaint against the concerned

bullock cart driver as well as against unknown persons. It is further submitted that the complaint has not been filed against the petitioner, who was a PDS shop licence holder. The said aspect has been completely ignored both by the licensing authority while passing the impugned order as well as by the appellate authority.

Learned counsel for the petitioner further submits that there is no allegation of black marketing against the petitioner in the FIR. Hence, both the orders passed by the licensing authority as well as the appellate authority are therefore only perverse and show non-application of mind.

Learned counsel for the respondents invites attention to the counter affidavit and supports the impugned order. He further submits that the licence was cancelled by the licensing authority after the FIR was registered wherein the petitioner has also been named. Since the allegations are to be investigated by the police and the same reflects black marketing, the cancellation order cannot be said to be unjustified or illegal. The appellate authority has also opined similarly.

This Court has considered the submissions of the parties. From the bare perusal of the FIR, it is apparent that the concerned officer did not file any complaint against the petitioner, although his name was entered by the police in the FIR as an accused, but the contents of the FIR nowhere reflect any black marketing on his behalf. The rice, which was seized from the bullock cart, has not been found to be that of the PDS shop of the petitioner as the stock of the PDS shop of the petitioner was found to be in order.

The licensing authority as well as the appellate authority have failed to take notice of content of the FIR and the order passed is only superfluous and is clearly a case of non-application of mind.

The writ petition, therefore, deserves to be allowed and is accordingly, allowed.

As such, the order dated 08.12.2020 (Annexure-5), passed vide memo no. 280, by respondent no.3, the Sub-Divisional Officer, Jainagar, Madhubani, as well as the order dated 05.07.2022 (Annexure-7), passed in Supply Appeal Case No. 165 of 2022, by respondent no.2, the District Magistrate, Madhubani are hereby quashed and set aside with all consequential benefits to the petitioner and the licence of PDS shop is restored to the petitioner.