

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.617 of 2015

- =====
1. Md. Ilyas S/o Late Basiruddin R/o Arrabari, P.S.- Paharkatta, District- Kishanganj.
 2. Md. Tanweer Alam S/o Late Gulam Moijuddin R/o Village- Arrabari Panchayat Raipur, Block Pothia, P.S.- Paharkatta, District- Kishanganj.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Food and Civil Supplies, Bihar, Patna.
2. The District Magistrate cum Collector, Kishanganj.
3. The Sub-Divisional Officer cum SDM, Kishanganj.
4. The Block Supply Officer, Kishanganj.

.... Respondent/s

=====

Appearance:

For the Petitioner/s : Mr. Satish Kumar Sinha, Advocate

For the Respondent/s : Mr. Sc17-Arbind Kumar No. II, SC-17

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 20-03-2015 Heard the parties.

Despite the order dated 10.3.2015, counsel for the State informs that he has received no instruction.

In such circumstances, the matter has been taken up with a view to its final disposal.

The facts are uncontested. The petitioners are licensee under the Public Distribution System (Control) Order, 2001 as enforced in Bihar in the year 2007. The license of the petitioners bears License No. 36P and 74P of 2007 respectively and has been cancelled by the impugned order 14.8.2014 bearing Memo No. 627 of the licensing authority cum Sub-Divisional Officer, Kishanganj.



The short issue raised by Mr. Sinha appearing on behalf of the petitioners is that even when a show cause notice was issued on 31.7.2014 as reflected from the impugned order, since the two petitioners were in jail custody since 27.7.2014 in connection with Kishanganj P.S. Case No. 388 of 2014, that they could not respond to the same inasmuch as they were provided with only 24 hours to respond to the notice which was an impossible task. It is stated that these petitioners were subsequently released on bail on 11.8.2014 but within three days thereafter and on grounds that no show cause was filed by the petitioners that simply on the basis of allegations, the impugned order has been passed.

Having heard learned counsel for the parties and taking note of the peculiar circumstances of the present case in which admittedly these petitioners were in custody as until 11.8.2014, this Court is of the opinion that an opportunity should have been provided to the petitioners to respond to the charges, before the impugned order was passed especially where the licensing authority was conscious of the fact that these two petitioners were in custody.

In such circumstances, there was no such hurry for the licensing authority to pass the order within three days thereafter on 14.8.2014 which apparently is a denial of reasonable opportunity to the petitioners to defend the allegations. Definitely a period of

three days certainly cannot be termed as reasonable. On this sole account, the order impugned bearing Memo No. 627 dated 14.8.2014 of the licensing authority-cum-Sub Divisional Officer, Kishanganj cannot be upheld and is accordingly set aside. The matter is remitted back to the licensing authority-cum-Sub Divisional Officer, Kishanganj to re-consider the matter and dispose of the same in accordance with law after giving reasonable opportunity of hearing to the petitioners who would appear alongwith their respective show cause reply as well as a copy of this order on or before **30.3.2015** and whereafter the licensing authority would proceed to dispose of the matter in the manner stipulated hereinabove and until such order is passed the licenses of the petitioners shall remain in abeyance.

The writ petition is allowed with the directions aforementioned.

(Jyoti Saran, J)

S.Sb/-

U			
---	--	--	--