

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18735 of 2014

=====

Sunil Sah, son of Ram Bhajan Sah, resident of Village:- Bishunpur, P.S:-
Baghaila, District:- Rohtas.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Excise Department Government of Bihar, Patna.
2. The Assistant Commissioner, Excise, Rohtas at Sasaram.
3. The District Magistrate-cum-Collector, Rohtas at Sasaram.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Sriprakash Srivastava with
Mr. Dhaneshwar Pd. Gupta, Advocates
For the Respondent/s : Mr. Vikas Kumar, AC to PAAG

=====

CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

4 09-01-2015 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks quashing of the order dated 31.3.2014 issued by the Assistant Commissioner, Excise, Rohtas, Sasaram by which the licence of the composite wine shops of group 18 belonging to the petitioner has been cancelled and the security money deposited therefor has been forfeited and for consequential directions.

The principal argument raised by learned counsel for the petitioner at this stage is that the said action has been taken and order passed without issuing show cause notice to the petitioner and not complying with the principles of natural justice.

In the counter affidavit filed on behalf of respondent

Nos. 2 and 3 it is stated that by letters dated 7.3.2014 and 21.3.2014 the petitioner had been sufficiently warned to lift the quota in terms of his licence and on his failure to do so treating the same as violation of the condition of sale notice, proceedings will be initiated for cancellation of licence and for forfeiture of the security money.

Nothing has been brought on the record to show that upon failure of the petitioner to act in terms of the said letters any show cause notice was issued and opportunity granted to the petitioner to reply to the same before the action for cancellation of the licence and forfeiture of the security money.

In the aforesaid view of the matter, the impugned order dated 31.3.2014 cannot be sustained. It is, accordingly, quashed. It shall, however, be open to the respondents to take fresh steps in the matter by issuing show cause notice and giving opportunity to the petitioner before passing any further order in the matter.

The writ application is, accordingly, allowed with the aforesaid observations and directions.

(Ramesh Kumar Datta, J)

(Vikash Jain, J)

spal/-

U			
---	--	--	--