

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10039 of 2001

=====

Krishna Kant Jha son of Late Kantir Jha, resident of village Navatola, P.S Jhanjharpur (R.S.) District Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, Madhubani.
3. The Sub-Divisional Officer, Jhanjharpur, Madhubani.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : None.

For the Respondent/s : None.

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 01-04-2015

The case was listed on 27th March 2015, when the case was called out, none from either side appeared. Even to-day, position is the same. This Court has no other alternative but to dispose of the petition on the basis of materials available on the record.

In this case petitioner is seeking quashing of order dated 4th July 2000 contained in Memo No. 239 whereby the Sub-Divisional Officer has cancelled the retail trade licence of petitioner granted under the Bihar Trade Articles (Licenses Unification) Order 1984 (for short, the 'Unification Order').

Short facts of the case is that the petitioner was granted retail trade licence under the Unification Order by the Sub-Divisional Officer, respondent no.3, the licensing authority and he was also appointed dealer of Public Distribution System of essential commodities. There was no complain against the petitioner in respect of distribution of essential commodities.

Petitioner was Vice President of Dealers' Association of Lakhnaur Block and also raised protest against the corrupt and malpractice by the Officers and staff under the Public Distribution System. On 3rd July 2000, when the petitioner was in the Supply section of the Sub-Divisional Office to

press the grievance of dealers and to enquire about his own file, he was arrested by the Police at the instance of the Sub-Divisional Officer and Assistant of Supply section making false allegation against him. Later on he was granted bail. The SDO vide Memo No. 239 dated 4th July 2000 cancelled the licence of the petitioner without giving any opportunity of being heard.

The petitioner filed an appeal before the Collector, Madhubani against the order passed by the licensing authority cancelling his licence. The appeal was heard on 31st May 2001 and the order of the licensing authority was affirmed.

The claims of the petitioner is that the order passed by the Sub-Divisional Officer is against the natural justice per se illegal and the order passed by the Collector is not a reasoned order, rather it is a cryptic order without discussing the merit of the case depriving the petitioner of his right to run the business.

The State has a filed a counter affidavit. There is nothing on the record to show that the petitioner was even served a notice or was heard before passing the impugned order.

It is well known principle of law even by an administrative order affecting civil right of a citizen, has a right to be heard before passing the order. This issue has been decided by the Hon'ble Supreme Court in **AIR 1970 SC 150 (A.K.Kraipak v. Union of India)**.

In this view of the matter, the impugned orders passed by the Sub-Divisional Officer, Respondent no.3 and the order passed by the Collector, Respondent no.2 are not sustainable and the same are quashed and this petition is allowed.

(Shivaji Pandey, J)

Jay/-

U			
---	--	--	--