

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.327 of 2014

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Md. Abdul Quyum @ Abdul Quyum S/o Md. Ayub, resident of Village-
Pura, Panchayat- Khutwara, Block- Sadar, District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Darbhanga
3. The Sub- Divisional Officer, Sadar, Darbhanga
4. The District Rationing Officer, Darbhanga
5. The Block Supply Officer, Sadar, Khutwara, Darbhanga

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Md. Harun Quareshi, Advocate
Mr. Md. Abdul Mannan Khan, Advocate

For the Respondent/s : Mr. Sandeep Kumar, Advocate
Mr. Viveka Nanda Singh,
AC to GA-8 for the State

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 07-07-2015 Heard Mr. Abdul Mannan Khan, learned counsel

appearing on behalf of the petitioner and Mr. Viveka Nanda

Singh, Assisting Counsel to GA-8 for the State.

The petitioner is a holder of license under the Public
Distribution System (Control) Order enforced vide Fair Price Shop
Order, 2007 bearing License No. 78 of 2007 / 73 of 1988. The
license of the petitioner has been cancelled and which order has
been affirmed by the appellate authority and hence the petitioner is
before this Court.

I have heard learned counsel for the parties and I have

perused the materials on record. The allegations against the petitioner is present at Annexure-3 and lists four charges against the petitioner which are as follow:

- (a) The shop was closed;
- (b) The signboard and the rate chart was not published;
- (c) 85 bags of rice and wheat was found; and
- (d) The petitioner makes sale of kerosene oil at higher price.

Apart therefrom in a general manner it has also been mentioned that some consumers charge the petitioner with realizing higher rate in distribution of kerosene oil.

The petitioner filed his reply to the show cause denying all the charges. A copy of the show cause and the reply are placed at Annexure-B and 3/1 respectively. A second show cause was issued by the Sub-Divisional Officer and which is stated to have not replied by the petitioner. However, by order dated 23.12.2011 placed at Annexure-2 the licensing authority-cum-Sub Divisional Officer, Sadar Darbhanga while ignoring the reply has cancelled the license and which order has been affirmed by the appellate authority. Counsel for the petitioner has questioned the impugned orders on limited grounds i.e.;

- (i) The allegations are based on no evidence;
- (ii) No material was supplied to the petitioner in support of the allegation; and

(c) The orders are non-speaking and do not discuss the reply.

Mr. Viveka Nanda Singh, learned counsel appearing for the State has contested the argument to submit that the charges were serious and orders are reasonable.

Having heard learned counsel for the parties, I am of the opinion that the allegations are bereft of descriptive details. For a general nature of a show cause as present at Annexure-3, the response by the petitioner vide Annexure-3/1 was more than satisfactory. Whereas the licensing authority has assigned no reasons for rejecting the show cause except that it was not satisfactory, the Collector as an appellate authority has dismissed the appeal on grounds that no materials were placed by the petitioner in support of his defence. In my opinion, in the nature of the show cause that was served upon the petitioner which does not pin point towards any particular instance of irregularity except charging the petitioner in a general manner of realizing higher price, it could only be denied in a general way. Insofar as the allegation present at Item 1 to 3 are concerned, it stands well settled under the judgment of this Court reported in **2012(3) PLJR 583 (Turant Lal Paswan vs. State of Bihar)** that for a single day closure, the license cannot be cancelled. In my opinion, a

proceeding cannot rest upon a vague charge sheet and a bare perusal of the charge memo present at Annexure-3 confirms to its vagueness. The order of cancellation is non-speaking and the appellate order expecting evidence from the petitioner in the circumstances that the petitioner was not confronted with specific details as regarding the irregularities nor was supplied with the name of the consumers, no materials could have been expected of the petitioner.

In the circumstances discussed, the order of cancellation impugned at Annexure-2 as well as its affirmation by the appellate authority vide Annexure-1 cannot be upheld and are set aside. The license of the petitioner is restored.

The writ petition is allowed.

(Jyoti Saran, J)

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