

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17079 of 2014

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1. Birendra Paswan S/o Late Raghui Paswan Resident of Madhwan, P.S. Paliganj, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food AND Consumer Protection Department, Patna
 2. The Collector, Patna
 3. The Sub Divisional Officer, Paliganj, Patna
 4. The Block Supply officer, Paliganj, District - Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari

For the Respondent/s : Mr. GP17- Binodji Verma

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL ORDER

2 23-11-2015 The petitioner holds PDS licence within Paliganj Block. He is aggrieved by order dated 25.7.2014 by which his licence has been cancelled.

The challenge is founded on the ground that show cause notice does not contemplate the proposed punishment. It was issued only for taking appropriate action under Public Distribution System (Control) Order, 2001 and as such the authority could not have inflicted punishment of cancellation of licence. The petitioner submits that under the Public Distribution System (Control) Order, 2001 punishment of cancellation of licence without a clear stipulation of the proposed punishment would amount to denying dealer a reasonable opportunity to defend his

case and as such would be violative of Articles 14 and 16 of the Constitution of India. In support of his submission, the petitioner has relied upon various orders passed by this Court on the issue in question. The petitioner further submits that even the show cause reply has not been duly considered by the respondent authorities.

A counter affidavit has been filed on behalf of the respondents wherein it has been stated that the petitioner has indulged in gross illegality.

In my view, the show cause notice is vague and no appropriate action could have been taken in absence of specific stipulation with respect to proposed punishment.

In the result, the impugned order of cancellation of licence is not sustainable in law and is accordingly set aside. The matter is remitted to the respondent authorities for issuance of fresh show cause notice in accordance with law.

(Samarendra Pratap Singh, J)

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