

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15829 of 2014

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Ganga Bishun Paswan son of Janak Paswan resident of village - Belsar, P.S.
- Noorsarai, Distt. – Nalanda Petitioner

Versus

1. The State of Bihar through the Collector, Nalanda.
 2. The Collector, Nalanda.
 3. The Sub Divisional Officer, Biharsharif, Nalanda.
 4. The Block Supply Officer, Noorsarai, Nalanda. Respondents
- =====

Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Advocate
For the Respondent/s : Mr. Sc26- Amar Nath Deo

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

3 30-11-2015 Heard learned counsel for the petitioner and learned
AC to SC 26 for the State.

The petitioner holds PDS license no. 17 of 1993 under Noorsarai block of Nalanda district. He is aggrieved by order dated 24.10.2007 by which his license was cancelled by the SDO, Biharsharif and affirmed in appeal by the Collector, Nalanda vide its order dated 24.10.2007.

The challenge is founded on the ground that show cause notice does not contemplate the proposed punishment. The notice only states that appropriate action would be taken under Public Distribution System (Control) Order, 2001 and as such the authority could not have inflicted punishment of cancellation of license. The petitioner submits that under the Public Distribution System (Control) Order, 2001 punishment

of cancellation of license 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. The petitioner further submits that a copy of the enquiry report has not been served on him and he has also been acquitted in the criminal case bearing Noorsarai Police station Case No. 168 of 2006 dated 8.10.2006 under sections 448, 341, 323, 307 and 504 of the Indian Penal Code.

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. Furthermore, no copy of enquiry report was furnished to the petitioner.

In the result, the impugned orders of cancellation of license is not sustainable in law and are accordingly set aside, subject to the third party right is created.

(Samarendra Pratap Singh, J)

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