

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13216 of 2015

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Raj Kumar Paswan aged about 50 years, Son of Late Chandar Paswan, resident of village- Budh Nagra, P.S. Nanpur, District- Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar through the Secretary Food and Consumer Protection Department.
2. The Sub-Divisional Officer, Pupari, Sitamarhi.
3. The Block Development Officer, Bokhra, Sitamarhi.
4. The Block Supply Officer, Bokhara, Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner : Mr. Nand Kishore Prasad Sinha, Advocate
For the State : Mr. Md. Raisul haque- SC4

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 15-12-2015

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the order dated 5.5.2015 contained in Annexure 6 by which the licence granted to the petitioner for running PDS shop has been cancelled.

Learned counsel for the petitioner has raised two questions. First is that merely for the closure of PDS shop for one day, petitioner's licence has been cancelled and secondly, it is contended that the reasonable opportunity has not been granted to the petitioner as his case has nowhere been discussed. Clause 7(II) of the Public Distribution System (Control) Order 2001 lays down in clear terms that, before cancellation of the licence on the grounds

of irregularities committed by the PDS dealer, a reasonable opportunity should be given to the concerned for stating his case against the proposed cancellation.

In my view that would mean that if reply is filed then there should be consideration by the licensing authority upon the grounds raised by the petitioner and unless that is done it cannot be assumed that reasonable opportunity has been given against the proposed cancellation. In this regard a reference is made to the decision of this Court in **C.W.J.C. No. 12675 of 2006 (Ram Uday Singh v. The State of Bihar and others)** and its analogous cases holding that the order passed without consideration of the show cause notice would not be tenable in law.

Accordingly, the impugned order as contained in Annexure 6 is quashed and set aside. The matter is remitted back to the licensing authority for taking a fresh decision after considering the grounds raised by the petitioner in his reply to the show cause notice and also considering the various decisions of this Court on the point that whether one day's closure of the PDS shop would be enough for taking the extreme step of cancellation of licence. It is expected that whole exercise would be concluded within a period of two weeks from the date of receipt / production of a certified copy of this order.

The writ application stands allowed to the extent as

indicated above but it does not mean that there would be automatic resumption of the supplies to the petitioner as the same would depend upon the nature of the order to be passed by the licensing authority in compliance of the direction of this Court apart from other issue also.

(Dr. Ravi Ranjan, J)

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