

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12509 of 2014

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Surendra Prasad Rai, son of Ram Japan Rai, resident of village - Dedhpura,
P.O. - Dedhpura, Panchayat - Narayanpur Dedhpura, P.S. - Mahnar, District
- Vaishali at Hajipur.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food & Civil Supply Department, Old Secretariat, Patna.
2. The Secretary, Food & Civil Supply Department, Old Secretariat, Patna.
3. The District Magistrate, Vaishali.
4. The Sub-Divisional Officer, Mahnar, District - Vaishali.
5. The District Supply Officer, District - Vaishali.
6. The Block Supply Officer, Mahnar, District - Vaishali.
7. The Block Supply Officer, Sahdei Bujurg, District - Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Kumar Singh

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 20-05-2015

Heard Mr. Ravindra Kumar Singh, learned counsel

appearing on behalf of the petitioner. There is no representation
on behalf of the State although a counter affidavit is on record.

The petitioner is a licensee under the Public
Distribution System (Control) Order, 2001 as enforced in the
State of Bihar vide Fair Price Shop Order, 2007 (hereinafter
referred to as 'the Control Order') bearing Licence No.44 of
2007 and is aggrieved by the order of cancellation passed by the
Licensing Authority –cum- Sub-Divisional Officer, Mahnar,
district- Vaishali bearing Memo no.1224 dated 14.6.2014 placed
at Annexure-1.



Mr. Singh, learned counsel appearing on behalf of the petitioner has raised a very short issue for consideration by this Court. He submits that even when the statutory violation was noticed by this Court in the earlier round of litigation arising from CWJC No.597 of 2013 requiring the Licensing Authority to proceed in accordance with law, yet the order passed purportedly in compliance of the direction issued in CWJC No.597 of 2013, lacks statutory compliance. A copy of the order passed in CWJC No.597 of 2013 is present at Annexure-9.

Mr. Singh, learned counsel for the petitioner with reference to Annexure-11 which is purported to be a show cause notice issued in compliance of the direction of this Court and is dated 12.11.2013 submits that the notice does not satisfy the statutory requirement of Clause 7(ii) of 'the Control Order' which mandates a notice against the proposed cancellation.

I have heard learned counsel for the petitioner and I have perused the records.

What this Court has been noticing is that despite 'the Control Order' having been enforced in the State in 2007 and appropriately amended in 2011 yet the Licensing Authorities are passing orders whimsically and without notice to the mandate of law underlying Clause 7(ii) of 'the Control Order' which in no

uncertain terms provides that no order of cancellation can be passed unless the licensee is granted reasonable opportunity to respond to the proposed cancellation. The statutory requirement being such yet notice dated 12.11.2013 issued in purported compliance of the order of this Court passed in CWJC No.597 of 2013 in no manner satisfies the statutory requirement inasmuch as there is no notice against a proposed penalty of cancellation.

The notice dated 12.11.2013 not satisfying the requirement of Clause 7(ii) of 'the Control Order' the cancellation order passed pursuant thereto bearing Memo No.1224 date 24.6.2014 also stands invalidated and is accordingly set aside.

The writ petition is allowed. The licence of the petitioner stands restored.

This order would, however, not preclude the Licensing Authority from proceeding afresh but in accordance with law.

(Jyoti Saran, J)

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