

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10649 of 2015

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Deo Kumar Singh S/o Chatoo Singh Resident of Village and Post Atimi, P.S.
Nasriganj, District Rohtas.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary Food and Supply, Government of Bihar, Patna.
2. The District Magistrate, Rohtas at Sasaram.
3. The Sub Divisional Officer, Bikramganj, Rohtas.
4. The Block Development Officer, Nasriganj, Rohtas.
5. The Circle Officer cum Block Supply Officer, Nasriganj, Rohtas.

.... Respondenta

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Appearance :

For the Petitioner : M/s Md. Khurshid Alam, Advocate

For the State : Mr. Sushant Praveer, AC to SC 27

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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 is aggrieved by the order dated 5.9.2014 as contained in Annexure 3 passed by the Sub Divisional Magistrate – cum - licensing authority, Bikramganj by which licence granted for PDS shop has been rejected on the ground of serious allegation and also in view of a criminal case having been registered against him under Section 7 of the Essential Commodities Act.

Sole ground taken by the petitioner is that the order has been passed without granting reasonable opportunity to the petitioner to explain his stand in the matter as no show cause notice was ever

issued to the petitioner so that he could file his reply.

It appears from the impugned order itself that the same has been passed on the basis of allegation and also a fact that a criminal case under Section 7 of the E.C. Act has been lodged against the petitioner. Clause 7 of the Public Distribution System (Control) Order 2001 lays down in clear terms that no order of cancellation of licence shall be passed without granting reasonable opportunity to the concerned persons for stating his case against the proposed cancellation. In the impugned order nowhere it stands stated that a show cause notice was even issued upon the petitioner. Even if it is assumed that the same was issued, it does not disclose that whether the petitioner has filed any reply or not and if he had filed a reply in that case why the grounds raised by him were not found tenable.

Accordingly, the order impugned is quashed and set aside and the matter is remitted back to the licensing authority, i.e., the respondent no. 3 to consider the matter afresh after granting opportunity of showing cause to the petitioner and pass necessary order after consideration of the materials on record and reply filed by the petitioner by recording reasons within a period of three months from the date of production of a certified copy of this order by the petitioner.

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.

(Dr. Ravi Ranjan, J)

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