

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.848 of 2014

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Ram Narain Rai S/o Late Krit Rai, resident of Village- Mayurwa, P.S- Sonbarsa,
District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.
2. District Magistrate, Sitamarhi.
3. Sub Divisional Officer, Sitamarhi, Sadar.
4. B.D.O. Bargania, District- Sitamarhi.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Binod Kumar, Advocate

For the Respondent/s : Mr. Yogendra Pd. Sinha, AAG-15

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 05-05-2015

Heard Mr. Yogendra Mishra, learned counsel for the
petitioner and Mr. Ram Subhash Singh, Assisting Counsel to AAG-15
for the State.

The petitioner is holder of a license for running a Fair Price
Shop bearing License No. 30 of 2007 granted to him under the Public
Distribution System (Control) Order, 2001 (hereinafter referred to as
'the Control Order') as enforced vide Fair Price Shop Order, 2007.

The license of the petitioner has been cancelled under the
order of the licensing authority-cum-Sub Divisional Officer,
Sitamarhi Sadar vide order dated 23.11.2013 placed at Annexure-3
and being aggrieved the petitioner is before this Court.

Although there is a statutory remedy of appeal available to



the petitioner under Clause-15 of 'the Control Order' but considering the nature of the action complained of by the petitioner, this Court is persuaded to grant indulgence in the matter despite the alternative remedy of appeal available to him.

Facts of the case briefly stated is that following recommendation by the District Magistrate, Sitamarhi and relying upon an inspection carried out by the Block Development Officer that the petitioner was served with show cause notice on 23.10.2013, a copy of which is placed at Annexure-1 charging the petitioner with realization of higher price in the distribution of grains under the Antodaya Scheme and the B.P.L. Scheme. The petitioner denied the charges by filing his reply and submitted that he is making the supplies within the prescribed parameters. The petitioner also enclosed the statement of some of the consumers who supported the claim of the petitioner. The impugned order thereafter has been passed reiterating the position reflecting from the show cause and by merely rejecting the show cause on grounds of not being satisfactory, the order is passed in the light of a judgment of the Supreme Court rendered in Civil Writ Petition No. 196 of 2001.

I have heard learned counsel for the parties and I have perused the materials on record. The impugned order simply rejects the response filed by the petitioner while upholding the charges. The

order is non-speaking and does not discuss the factual details to support the charges. Whereas the allegation against the petitioner is of irregularity in distribution and of charging higher price which charge has been denied by him but there is nothing on record of the impugned order to uphold the allegation set out against the petitioner. The order is based on no evidence and has been passed in a mechanical manner simply relying upon a decision of the Supreme Court. An order of cancellation is a quasi judicial exercise and has to be performed in the manner required. An order resulting in civil consequences should reflect an application of mind and which is totally missing in the present case. In fact as I have said it is based on no evidence.

For the reasons aforementioned, the order of cancellation of license dated 23.11.2013 passed by the Licensing authority-cum-Sub Divisional Officer, Sitamarhi Sadar, cannot be upheld and is set aside.

The writ petition is allowed.

The license of the petitioner stands restored.

(Jyoti Saran, J)

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