

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2940 of 2015

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Awadhesh Ram @ Awadhesh Kumar S/o Sri Lalan Ram R/o Village-
Khandhra Pandeypur, P.O.-Dulahpur, P.S.-Simri, District-Buxar.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food and Consumer Protection Department, Patna.
2. The District Magistrate, Buxar.
3. The District Manager, State Food Corporation, Buxar.
4. Sub-Divisional Officer-Cum-Licency Authority, Dumraon, Buxar.
5. The Block Supply Officer, Simri, P.S.-Simri, District-Buxar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shree Kant Pandey, Advocate

For the Respondent/s : Mr Kumar Alok Kumar, SC-8.

Advocate for State:- Dr. Raj Kumar Singh, A.C. to S.C.8

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 21-05-2015

Heard the parties.

The petitioner is a licensee under the Public Distribution System Control Order, 2001 bearing Licence No.58/2007 dated 18.06.2007. The licence of the petitioner has been cancelled by the Licensing Authority-Cum-Sub-Divisional Officer vide Memo No. 470 dated 27.01.2015.

The issue raised by Mr. Shree Kant Pandey, learned counsel for the petitioner is that there was no service of notice against proposed cancellation as mandated under Clause 7 (ii) of Public Distribution System (Control) Order (hereinafter referred to as 'the Control Order').

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

A counter affidavit has been filed contesting the claim of the petitioner while supporting the impugned order but in so far as the issue raised by the petitioner regarding absence of notice against proposed

cancellation is concerned, the counter affidavit is silent.

Clause 7 (ii) of the ‘Control Order’ provides that no order of cancellation can be passed unless the licensee has been granted reasonable opportunity of stating his case against the proposed cancellation of licence.

Although a show cause notice is present at Annexure-4 to the writ petition but it merely refers to institution of criminal case against the petitioner for the alleged irregularities and nothing further.

Under the circumstances discussed, the order of cancellation bearing memo no. 470 dated 27.1.2015 contained at Annexure-5 to the writ petition cannot be sustained and is accordingly set aside.

The licence of the petitioner is restored.

The writ petition is allowed.

This order however, shall not preclude the authorities to proceed in this matter afresh but in accordance with law.

(Jyoti Saran, J.)

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