

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1216 of 2015

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Rajbanshi Gupta son of Late Khenar Sah, resident of village-Purkhas, P.S.
Gopalpur, District-Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Food and Supply Department,
Government of Bihar, Patna
2. The Collector-cum-District Magistrate, Gopalganj
3. The Sub-Divisional Officer, Gopalganj
4. The Block Supply officer, Gopalganj
5. The Supply Inspector, Kuchaikot, District Gopalganj

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Naresh Prasad, Advocate
For the Respondent/s : Mr. Prashant Pratap, GP-6

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 08-05-2015 Heard Mr. Naresh Prasad, learned counsel for the

petitioner and Mr. Deo Kumar Pandey, Assisting Counsel to G.P.-

6 for the State.

The petitioner is a license holder under the Public
Distribution System (Control) Order, 2001 (hereinafter referred to
as 'the Control Order) enforced in the State vide Fair Price Shop
Order, 2007 bearing License No. 35 of 2007. The license of the
petitioner has been canceled under the order of the licensing
authority-cum-Sub Divisional Officer dated 08.08.2011, a copy of
which is placed at Annexure-6 to the supplementary affidavit and
which order of cancellation is affirmed by the appellate authority

vide order passed on 24.10.2014 whereby the Collector, Gopalganj has dismissed the statutory appeal of the petitioner bearing Appeal No. 7 of 2013.

Facts of the case briefly stated is that on complaints received against the petitioner a show cause was served upon him by the licensing authority vide order dated 26.1.2012 placed at Annexure-C series requiring the petitioner to respond to the allegation. Although it is stand of Mr. Naresh Prasad, learned counsel for the petitioner that the same was responded but neither the show cause nor the reply is on record of the writ petition. This show cause was followed by another show cause dated 8.7.2011 placed at Annexure-4 charging the petitioner with irregularities in distribution of kerosene oil and which has been replied by the petitioner vide Annexure-5 on 30.7.2011. The licensing authority after consideration of the allegations set up against the petitioner under the two cause notice dated 21.6.2011 and 8.7.2011 and finding the replies given by the petitioner not satisfactory and in absence of any documents to rebut the allegations, has cancelled the license of the petitioner and which order of cancellation has been affirmed by the appellate authority. The petitioner being aggrieved is before this Court.

Although it is argued by Mr. Naresh Prasad appearing



for the petitioner that the petitioner had responded to the two show cause notice dated 21.6.2011 as well as 8.7.2011 but there is no mention about the first show cause notice in the writ petition nor about its reply. Even after the said show cause notice has been brought on record by way of counter affidavit by the respondents yet the petitioner has not bothered to clarify the position.

Mr. Naresh Prasad, learned counsel appearing on behalf of the petitioner tried to justify the stand of the petitioner by relying upon the impugned order of cancellation passed by the Sub-Divisional Officer placed at Annexure-6 to the supplementary affidavit to submit that the allegations set up in the show cause notice dated 21.6.2011 finds discussion in the order and the licensing authority has also taken note of the denial made by the petitioner to the charges but he has failed to substantiate such denial with evidence rebutting the charges which find mention in the notice dated 21.6.2011. A simple denial is not sufficient to take away the weight of the charges and although it is contention of Mr. Prasad that evidences had been produced by the petitioner to confront the charges in the show cause notice dated 21.6.2011 but this Court is at loss to appreciate as to why such important fact was not brought on the record of the proceedings and is being tried to be responded when such issue is being raised in the counter

affidavit. It also does not give any explanation as to the circumstances why the petitioner did not bring any document on record upon the charges which pinpoint towards the complaint set up against the petitioner and finds mention in the notice dated 21.6.2011. An oral argument by Mr. Prasad is not sufficient enough to dispel the allegations and considering that the allegations set up against the petitioner in the impugned notice dated 21.6.2011 goes uncontested and in absence of any document to falsify the same, this Court is not persuaded to interfere with the orders impugned. The writ petition is dismissed.

S.Sb/-

(Jyoti Saran, J)

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