

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1440 of 2016

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Nageshwer Prasad, Son of late Halkhori Das, Resident of Village- Bagahi, Police Station - Paraiya, District Gaya.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food & Consumers Protection, Govt. of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub-Divisional Officer, Tikari ,District Gaya.
4. The Block Supply Officer, Tikari Dist Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Binay Kumar, Advocate
For the State : A.C. to A.A.G. 10

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT
Date: 27-07-2016

Heard parties.

Though a copy of the writ petition was served upon the State on 19.01.2016, no counter affidavit has been filed on behalf of the State.

Today, learned counsel for the State seeks adjournment for filing counter affidavit. However, in view of the nature of order which is going to be passed, the case has been considered for its final disposal without waiting further for any counter affidavit.



Sole ground raised by the petitioner at the time of hearing is that the show cause notice issued upon the petitioner, a copy of which has been appended as Annexure 1, which has been referred in the impugned order cancelling the licence of the petitioner, does not disclose that the same has been issued for proposed action of cancellation of licence. Only direction given under that to the petitioner was to submit his reply within three days otherwise necessary action would be taken against him.

In my view, the aforesaid show cause notice being vague cannot be held to be for a proceeding for proposed cancellation of licence of the petitioner. The issue is no longer *res integra* as, by now, it is well settled that if the show cause notice does not disclose that it is being issued in contemplation of a proceeding for cancellation of licence then it has to be held to be vague and order of cancellation has to be held as having been passed without reasonable and adequate opportunity having been granted to the licensee. A reference in this regard is made to an unreported decision of this Court dated 19.1.2016 passed in **C.W.J.C. No. 6826 of 2015 (Arvind Paswan Vs. The State of Bihar & Ors.)** in which another decision rendered in **C.W.J.C. No.17079 of 2014 (Birendra Paswan Vs. The State of Bihar and Ors.)** has been discussed.

Accordingly, in my view, the impugned order, as

contained in Annexure 3, cannot be sustained in the present form and, accordingly, the same is quashed and set aside. However, the Licensing Authority would be at liberty to issue a fresh and proper show cause notice, if it so desires, for initiation of a proceeding for cancellation of licence.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
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