

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 16524 of 2016

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Dinanath Prasad, S/o Late Hari Ram Prasad, Resident of village -
Khurhuria, P.S. Kateya, District – Gopalganj.

.... Petitioner.

Versus

1. The State of Bihar through the Collector, Gopalganj.
2. The Collector, Gopalganj.
3. The Sub Divisional officer, Hathua, Gopalganj.
4. The Block Supply officer, Kateya, Gopalganj.

.... Respondents.

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Adv.

For the Respondents: Mr. Alok Ranjan, AC to GA6

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 01-12-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the order dated 21.07.2016 passed by the Sub-divisional Officer, Hathua, as contained in Annexure-3 by which the PDS licence was cancelled as well as the appellate order dated 23.08.2016 passed by the District Magistrate, Gopalganj, as contained in Annexure-4 by which Supply Appeal No. 19 of 2016 has been dismissed.

The sole ground raised by the petitioner at the time of hearing is that the show cause notice is vague as it has not been issued for the purpose of cancellation of licence. The Clause 7(ii) of the PDS (Control) Order, 2001 lays down in clear terms that



before cancellation of licence reasonable opportunity should be granted to the licensee to make a reply to the proposed cancellation.

I find force in the submission raised on behalf of the petitioner that the show cause notice merely shows that if he does not submit his reply then action would be taken in accordance with law. Thus, in my view, the aforesaid show cause notice is vague. The Clause 7(ii) of the Public Distribution System (Control) Order, 2001 lays down in clear terms that before cancellation of licence reasonable opportunity should be granted to the licensee to make a reply is against the proposed cancellation.

The issue is no longer *res integra* as it is well settled that for cancellation of P.D.S. licence under Clause 7 (ii) of the Public Distribution System (Control) Order, 2001, a show cause notice for proposed cancellation has to be issued so that a proper reply could be filed by the licensee. A vague notice without specifying the purpose for which it is being issued, would not be sufficient. A reference in this regard is made to a decision of this Court dated 19.01.2016 passed in CWJC No.6826/2015 (**Arvind Paswan vs. The State of Bihar & Ors.**).

The appellate authority has also not considered this



aspect of the matter.

Accordingly, in my view, the orders impugned are not sustainable in the eye of law. In the result, this writ application succeeds. The impugned orders as contained in Annexure-3 and 4 are quashed and set aside. Since there was no notice for cancellation of licence, the petitioner’s licence is to be restored immediately.

However, this order would not come in the way of the licensing authority in initiation of any fresh proceeding, if it so desires.

(Dr. Ravi Ranjan, J.)

Vikash/-

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