

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3091 of 2014

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Sah Deo Yadav, S/O Late Janak Yadav, Resident of Village- Parual, Police Station-
Manigachhi, District- Darbhanga.

.... Petitioner

Versus

1. The State Of Bihar through the Chief Secretary Food and Supply Department,
Government of Bihar, Patna.
2. The District Magistrate, Darbhanga.
3. The Senior Deputy Collector, Sadar Darbhanga.
4. The Sub- Divisional Officer, Sadar, Darbhanga.
5. The Circle Officer- Cum- the Supply/ Marketing Officer, Manigachhi, Police
Station- Manigachhi, District- Darbhanga.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Advocate

For the Respondent/s : Mr. Satyendra Kumar Jha, AC to GP-3.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 19-07-2016

Heard parties.

Through this writ application, the petitioner seeks quashing of Annexure-9 which is an order dated 19.01.2013 passed by the Sub-Divisional Officer-cum-Licensing Authority, Sadar, Darbhanga by which his licence granted for running a PDS Shop has been cancelled. He also assails the order dated 4.10.2013, as contained in Annexure-10, passed by the Collector, who happens to be the appellate authority, by which he has dismissed the appeal and upheld the order of the licensing authority.

It is contended on behalf of the petitioner that a show



cause notice was issued upon the petitioner for the proposed cancellation of his licence vide Annexure-4 dated 15.06.2012. The petitioner responded to it by filing reply, however, nothing was done. Again a show cause notice was issued to the petitioner vide Annexure-6 dated 31.12.2012 to explain the matter immediately and, thereafter, action for cancellation of licence has been taken by stating that the petitioner did not respond to the aforesaid show cause notice. It is further contended that Annexure-6 does not disclose that it was issued for the proposed action of cancellation of licence as direction was only to the petitioner to file reply to the show cause notice immediately without any consequence which was to follow.

A counter affidavit has been filed on behalf of the State. It has categorically been stated in paragraph 18 thereof that the order of cancellation of licence is not with respect to the show cause notice which was issued on 15.06.2012 (Annexure-4) rather the same is in response to the notice contained in Annexure-6. However, it is also a fact that Annexure-6 does not disclose any consequential action. It does not disclose that it is being issued in a proceeding for proposed action of cancellation of licence.

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.

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-9 and 10 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)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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