

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1862 of 2016

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Chandra Kala Devi, Wife of Sri Ram Chandra Yadav, Resident of
Village- Beauni, P.S.- Bahadurpur, District-Darbhanga. Petitioner.

Versus

1. The State of Bihar through Secretary, Department of Food and Civil Supply, Govt. of Bihar.
 2. Commissioner Darbhanga Division, Darbhanga.
 3. District Magistrate, Darbhanga.
 4. SDO, Sadar Darbhanga cum Licensing Authority. Respondents.
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Appearance :

For the Petitioner : Mr. Ajay Thakur, Adv.

: Mr. Ajeet Kumar, Adv.

For the Respondents : Mr. Shashi Shekhar Pd. Sinha, AC to GA-VI.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 16-11-2016

Heard parties.

Petitioner is aggrieved by the order dated 02.01.2016
passed by the Licensing Officer-cum-Sub-divisional Officer,
Sadar Darbhanga by which his PDS License No. 66 of 2007 has
been cancelled.

The sole ground taken at the time of hearing is that the
show cause notice does not disclose that the same was issued for
the purpose of cancellation of licence.

It is contended that in such a situation the order of
cancellation would be in teeth of the statutory provision under
clause 7(ii) of the Public Distribution System (Control) Order,
2001.



Admittedly, Annexure-2 is the show cause notice dated 03.03.2015 which stands mentioned in Paragraph 2 of the impugned order contained in Annexure-1. The notice does not indicate that the same has been issued for the purpose of cancellation of licence of the petitioner.

The issue is no longer *res integra* as this Court has held on several occasions including a decision rendered in CWJC No. 17079 of 2014 dated 23.11.2015 has held that if show cause notice does not disclose that the same is being issued for a contemplated action of cancellation of licence then it cannot be held that adequate opportunity was given to the petitioner before cancellation of licence and, thus, it would be in violation of statutory provision as contained in clause 7(ii) of the Public Distribution System (Control) Order, 2001.

Accordingly, this writ petition succeeds on the aforesaid sole ground and no other ground has been pressed by the petitioner at the time of hearing. As such, this writ petition is allowed and the impugned order contained in Annexure-1 is, hereby, set aside. However, the authority concerned would be at liberty to initiate a fresh hearing, if it so desires, in accordance with law.

It is made clear that in such a situation, the copy of the



inquiry report and any complaint made by the beneficiaries should be supplied to the petitioner along with show cause notice and only after granting reasonable opportunity to the petitioner, a decision should be taken in accordance with law. From paragraph 7 of the order impugned in Anneuxre-1, it appears that Licensing Authority has passed the order in view of direction of the District Magistrate. It is further made clear that the Licensing Authority has to apply its own mind and take an independent view without being influenced by any superior authority especially since the District Magistrate happens to be the Appellate Authority.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
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