

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1630 of 2016

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Raushan Ara Wife of Md. Alamgir resident of village - Taradih, P.S. Bahadurpur,
District - Darbhanga

.... Petitioner/s

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

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate.
Mr. Ishtiyaque Ahmad, Advocate.

For the Respondent/s : Mr. Samu Kumar, AC to SC 16

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 30-11-2016

Heard parties.

Petitioner challenges Annexure 1 which is an order dated 07.01.2016, passed by the Licensing Authority-cum-Sub-Divisional Officer, Sadar Darbhanga, by which his licence No. 14 of 2007 has been cancelled.

Petitioner has raised two grounds. First is that the first show cause notice is vague and not for cancellation of licence. In fact it was second show cause notice from which it appears that cancellation of licence was contemplated. However, it is further contended that the inspection has been made at the behest of the



District Magistrate and order of cancellation has also been passed on his command but a copy of the enquiry report was never provided to the petitioner along with the show cause notice. The show cause notice also does not disclose that there was any enclosure along with it.

As a counter, a vague reply has been given to the paragraph 7 of the petition stating that it is a matter of record and therefore, not required to be replied specifically. In the aforesaid fact and circumstances it has to be understood that the show cause notice and impugned order have been passed on the basis of enquiry report a copy of which was not supplied to the petitioner. It has to be further held that in the absence of same petitioner could not have filed proper reply. Thus, in any considered view, the same would be not only in violation of principles of natural justice but the statutory provision under Clause 7 (ii) of the P.D.S Control Order 2001. A reference in this regard has been made to the decision of this court rendered in **C.W.J.C. No. 1690 of 2016 (Nawal Kishore Singh Vs. The State of Bihar)**.

Accordingly, the order impugned is quashed and set aside. The matter is remanded back to the authority for taking fresh decision in accordance with law without being prejudiced by any command of the District Magistrate. A copy of enquiry report/inspection report



should be provided to the petitioner and another opportunity for filing reply should also be given. Thereafter, a final decision should be taken after considering the grounds raised by the petitioner.

It is expected that whole exercise will be completed within three months from the date of receipt/production of a copy of this order.

Accordingly, the application stands allowed to the extent indicated as above.

(Dr. Ravi Ranjan, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	16.01.2017
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