

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1788 of 2016

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1. Ram Nath Yadav Son of Late Bhola Yadav, resident of village- Taralahi, 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. Nilesh Kumar, Advocate.
For the Respondent/s	:	Mr. Durgesh Nandan, AAG 14 Mr. Umesh Kumar, AC to AAG 14.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 30-11-2016

It is urged at the bar that this writ application may also be disposed of in terms of the decision rendered in **C.W.J.C. No. 1630 of 2016 (Raushan Ara Vs. The State of Bihar & Ors.)**

Heard parties.

Petitioner challenges Annexure 1 which is order dated 02.01.2016 passed by the Licensing Authority-cum-Sub-Divisional Officer, Sadar Darbhanga by which licence No. 40 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. However,



from the second show cause notice it appears that cancellation of licence was contemplated. It is next 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 and a copy of the enquiry report was never provided to the petitioner along with 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 made to paragraph 7 of the petition stating that the same is matter of record and therefore, not required to be replied specifically. Thus, it has to be understood that the impugned order has been passed on the basis of enquiry report and a copy of the same was never served upon the petitioner. As a result it has to be held that in the absence of same petitioner could not have filed adequate reply as he was not knowing the basis of the allegations or the complaints made against him. Thus, in my view, the impugned order would not only be in violation of principles of natural justice but it also violates the statutory provision under Clause 7 (ii) of the PDS 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 to the licensing authority for taking a fresh decision independent of any command of the District Magistrate and in accordance with law. Before doing that a copy of enquiry report/inspection report should be provided to the petitioner and another opportunity for filing reply should also be given also thereafter, final decision should be taken after considering the ground 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 above.

(Dr. Ravi Ranjan, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

