

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3320 of 2014

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Raghunandan Prasad Singh, S/O Late Mahabir Prasad Singh, Resident of Village-
Darpa, P.S- Rajoun, District- Banka.

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate, Banka.
3. The Sub Divisional Officer, Banka.
4. The Block Development Officer, Rajoun, District- Banka.
5. The Block Supply Officer, Barahat, District- Banka

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Dharendra Nath Jha, Advocate

For the Respondent/s : Mr. Rajiv Kumar, AC to G.A.-5

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 19-07-2016

Heard parties.

Petitioner seeks quashing of the Annexure-2 which is an order dated 13.10.2008, as contained in Annexure-2, passed by the Sub-Divisional Officer-cum-licensing authority by which his license for running a PDS shop has been cancelled. He also assails the order dated 12.03.2012 passed by the Appellate Authority in Appeal No.49/2008-09, as contained in Annexure-3, by which the appeal has been dismissed and the order passed by the licensing authority has been upheld.

The sole ground raised on behalf of the petitioner is that apparently the order impugned passed by the licensing authority is without considering the cause shown by the petitioner in proper perspective as only one sentence has been devoted that reply to the

show cause notice has not been found satisfactory.

Counter affidavit has been filed on behalf of the respondent nos.2 to 5. In paragraph 5 of the counter affidavit, it is stated that he has approached this court after lapse of more than one year against the impugned order.

However, I find force in the submission raised on behalf of the petitioner. It is well settled that if any order of the authority is going to visit civil sequence, then a show cause notice has to be issued and the reply, if any, filed by such person has to be considered and reason should be recorded as to why the grounds raised in the reply are not found tenable, otherwise, the order would suffer from the vice of arbitrariness. That apart, Clause 7(ii) of the Public Distribution System (Control) Order, 2001 also lays down in clear terms that before cancellation of licence, reasonable opportunity should be granted to the licensee to make out his case. It is well settled that adequate opportunity cannot be held to have been given to the licensee if his reply is not considered and reason is not recorded as to why the grounds raised by him are not found tenable. From the impugned order, it is apparent that only one sentence has been devoted that the petitioner's reply has not been found satisfactory, in my view, that would not be sufficient and, thus, the order impugned cannot be sustained in its present form.

Since the order itself suffers from aforesaid vice, in my view, the period of more than one year taken by the petitioner for

filing this case would not be sufficient ground of throwing him out.

Accordingly, this writ application succeeds. The impugned orders as contained in Annexure-2 and 3 are quashed and set aside. The matter is remitted back to the licensing authority for taking a fresh decision in accordance with law.

It appears that order impugned is based upon some enquiry done by the Block Supply Officer. In case a copy of such enquiry report was not furnished to the petitioner and the complaints of the beneficiaries, if any, have also not been supplied to him then both would be required to be supplied and fresh opportunity should be granted to him for filing effective reply. Thereafter, licensing authority would be required to take a final decision by pronouncing a reasoned and speaking order.

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

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	8.08.2016
Transmission Date	N.A.