

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4376 of 2015

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Rajendra Prasad, Son of Sri Ram Prawesh Prasad, Resident of Village- Bamhour,
P.S. Sheosagar, District Rohtas Petitioner.

Versus

1.The State of Bihar through Principal Secretary Food and Supply, Government of
Bihar, Patna.
2. The District Magistrate , Rohtas at Sasaram.
3. The Sub-Divisional Officer, Sasaram, Rohtas.
4. The Block Development Officer Sasaram, Rohtas.
5. The Block Supply Officer, Sheosagar, Rohtas Respondents.

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Appearance :

For the Petitioner : Mr. Md. Khurshid Alam

For the Respondent/s : Mr. R R K Panday, SC-29

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 05-01-2016

Heard learned counsel for the petitioner and the State.

The petitioner is aggrieved by the order dated 28.07.2014 passed by the Sub-Divisional Officer-cum-Licensing Authority, Sasaram by which his Licence No.23 of 2007 for running the P.D.S. shop has been cancelled.

The sole ground raised by the petitioner at the time of hearing is that extreme action of cancellation of licence has been taken without serving any show cause notice and granting him reasonable opportunity to submit his stand. It is also contended that the report of alleged inquiry was also not served upon the petitioner.

A counter affidavit has been filed on behalf of respondent nos. 2 to 4, however, learned counsel for the State is not in a position

to show that before passing of the order of cancellation vide Annexure-1 any show cause notice for the proposed cancellation was served upon the petitioner and he was given reasonable opportunity to defend his case which is in violation of the mandatory requirement under Clause 7(II) of the Public Distribution System (Control) Order, 2001.

Accordingly, in my view, the order impugned can not be sustained in view of the aforesaid fatal lacuna. As a result, this writ petition stands allowed. The impugned order is quashed and set aside.

However, it is made clear that this order would not come in the way of the respondents authority for fresh initiation of any proceeding in accordance with law against the petitioner by serving a proper show cause notice along with copies of the complaints filed by the beneficiaries, if any, against the petitioner as well as copy of the inquiry report.

It is further made clear that if no fresh action is taken within a period of two months from the receipt/production of a copy of this order then supply would have to be resumed in his favour.

(Dr. Ravi Ranjan, J)

Brajesh/V.K.Pandey

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