

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4024 of 2016

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Pramod Kumar Singh, President of Itahima PACS - Panchayat - Itamahi, Block - Nasriganj, resident of Itamahi, Block - Nasriganj, P.S. Nasariganj, District - Rohtas (Sasaram)

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, Rohtas at Sasaram
2. The Sub - Divisional officer Cum Licensing Authority, Nasariganj, P.S. Nasariganj, District - Rohtas at Sasaram
3. The District Supply officer, Rohtas (Sasaram), District - Rohtas at Sasaram
4. The Assistant District Supply officer, Rohtas (Sasaram), District - Rohtas at Sasaram
5. The Circle officer, Nasariganj, District - Rohtas at Sasaram

.... Respondents

with

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Civil Writ Jurisdiction Case No. 4030 of 2016

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Ashok Kumar Son of Late Suchit Prasad, Jan Vitran Pranali resident of - Panchayat - Amiyawar, Block - Nasariganj, P.S. Nasariganj, District - Rohtas (Sasaram)

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, Rohtas at Sasaram
2. The Sub - Divisional officer Cum Licensing Authority, Nasariganj, P.S. Nasariganj, District Rohtas at Sasaram
3. The District Supply officer, Rohtas (Sasaram), District Rohtas at Sasaram
4. The Assistant District Supply officer, Rohtas (Sasaram), District - Rohtas at Sasaram
5. The Circle officer, Nasariganj, District - Rohtas at Sasaram

.... Respondents

with

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Civil Writ Jurisdiction Case No. 4041 of 2016

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Raja Ram Son of Sri Bigli Rai Resident of Village- Katchwa Panchayat Kaithi Nasariganj Ps Nasaraiganj Rohtas Sasaram.

.... Petitioner

Versus

1. The State of Bihar through District Magistrate Rohtas at Sasaram.
2. The Sub-Divisional Officer Cum licensing Authority Nasariganj. P.s Nasariganj District Rohtas at Sasaram.
3. The District Supply officer, Rohtas (Sasaram) District Rohtas at Sasaram.

4. The Assistant District Supply Officer, Rohtas (Sasaram) District Rohtas at Sasaram.
5. The Circle Officer, Nasariganj District Rohtas at Sasaram.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 4275 of 2016

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Binod Kumar son of Late Ram Narayan Sah, resident of Village- Dhanao, Panchayat- Dhanaw, Block- Nasariganj, P.S - Nasariganj, District- Rohtas (Sasaram).

.... Petitioner

Versus

1. The State of Bihar through District Magistrarte, Rohtas at Sasaram
2. The Sub-Divisional Officer cum Licensing Authority, Nasariganj, P.S.- Nasariganj, District- Rohtas at Sasaram.
3. The District Supply Officer, Rohtas (Sasaram), District- Rohtas at Sasaram.
4. The Assistant District Supply Officer, Rohtas (Sasaram), District- Rohtas at Sasaram The Circle Officer, Nasariganj, District- Rohtas at Sasaram.

.... Respondents

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Appearance :

(In CWJC No.4024 of 2016)

For the Petitioner : M/s N.K.Agrawal, Sr. Advocate
Satyendra Prasad Singh, Advocate

For the State : Mr. Ansul Haque, AC to AAG 9

(In CWJC No.4030 of 2016)

For the Petitioner : M/s N.K.Agrawal, Sr. Advocate
Satyendra Prasad Singh, Advocate

For the State : Mr. Suman Kumar Jha, AC to AAG 5

(In CWJC No.4041 of 2016)

For the Petitioner : M/s N.K.Agrawal, Sr. Advocate
Satyendra Prasad Singh, Advocate

For the State : Mr. Sanjay Kumar, AC to AAG 6

(In CWJC No.4275 of 2016)

For the Petitioner : M/s N.K.Agrawal, Sr. Advocate
Satyendra Prasad Singh, Advocate

For the State : M/s GAUTAM BOSE- AAG 8
Rohit Mishra, AC to AAG 8

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 29-06-2016

Heard parties.

In all the writ petitions identical issues are involved, therefore, all of them are being heard and considered together and are being disposed of by a common order with the consent of the parties.

The writ petitioners of all the writ petitions seek quashing of order dated 10.2.2016 as contained in Annexure 3 passed by the Sub Divisional Officer – cum – licensing authority, Bikramganj in all the writ petitions by which the licences granted to them for running PDS shop have been cancelled.

Two points have been raised by the petitioners at the time of hearing. First is that the show cause notices in the orders impugned appear to be based upon an inquiry conducted by a Team constituted for the purpose by the District Magistrate, Rohtas, Sasaram, but the copies of the inquiry reports were not supplied to the petitioners which would be evident from the Annexure 1 of all the writ petitions which carry no appendix. Second point raised on behalf of petitioners that even the show cause notices, a copy of which has been appended as Annexure 1 in all the writ petitions, is vague and have not been issued for the purported action for cancellation of licence.

Learned counsel appearing for the State seek adjournment for ascertaining as to whether a copy of the inquiry report was actually served upon the petitioners or not. However, from



the show cause notice, it does not appear that any report was enclosed. That apart, learned counsel appearing for the State in all the cases have miserably failed to point out from the show cause notice that it has been issued for the purported action of cancellation of licence.

This issue is no long *res integra* as the same has been decided in several cases by this Court. A reference in this regard is made to an unreported decision of this Court dated 19.1.2016 passed in **C.W.J.C. No. 6826 of 2015 (Arvind Paswan Vs. The State of Bihar)**. This Court has held in the aforesaid decision that if the show cause notice is vague and does not disclose that it is being issued in contemplation of a proceeding for cancellation of licence then it cannot be held that the adequate opportunity was granted to the licensee to state his case before cancellation of licence and, thus, it would be in violation of the mandatory provision as contained in Clause 7(ii) of the PDS Control Order, 2001.

Since all the writ petitions succeed on the aforesaid count itself, there would be no requirement for granting adjournment to the State for seeking instruction on the issue as to whether any inquiry report was served upon the petitioners. It is also submitted on behalf of State that the petitioners have approached this Court without availing the statutory remedy and appeal and as such they should be

relegated to he appellate forum. The aforesaid statement made on behalf of the State is noted only to be rejected as this Court has already held as above that in view of defective notice the entire proceeding stands vitiated. Thus, there would be no requirement of relegating the petitioners to the appellate authority as the proceeding suffers from fatal flaw.

Accordingly the impugned order as contained in Annexure 3 of all writ petitions are quashed and set aside. The licenses of the petitioners in all the writ petitions are restored. However, this order would not come in way to the competent authority in initiating a fresh proceeding in accordance with law against the petitioners, if it so desires.

The writ petitions stand allowed.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.07.2016
Transmission Date	NA