

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7431 of 2016

Vijendra Prasad, son of late Ramcharitar Sao, resident of village- Nirakhpur, Police Station- Paliganj, District- Patna

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Department of Food and Consumers Protection, Government of Bihar, Patna
2. The District Magistrate, Patna
3. The Sub-Divisional Officer, Paliganj, District- Patna
4. The Assistant District Supply Officer, Paliganj, Dist.- Patna
5. The Block Supply Officer, Paliganj, Dist.- Patna

.... Respondents

Appearance :

For the Petitioner : Mr. Binay Kumar, Advocate

For the State : Mr. Rakesh Kumar Ranjan, A.C. to G.A. 12

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 29-06-2016

Heard parties.

Petitioner seeks quashing of the order dated 10.03.2016 passed by the Sub-Divisional Officer-cum-licensing authority, Paliganj by which he has cancelled the licence no.221/2007 of the petitioner granted for running a PDS shop.

It is contended on behalf of the petitioner that the order impugned has been passed without issuing any notice for



cancellation of licence upon the petitioner. Show cause notice has been appended as Annexure 1 which only discloses that the petitioner was directed to explain within three days regarding finding of the enquiry jointly conducted by the Assistant District Supply Officer and Block Supply Officer, Paliganj. The same notice appears to have been discussed in the impugned order.

From perusal of the show cause notice it does not appear that it was issued for any punitive action to be taken against the petitioner. It only directs the petitioner to file his explanation but the consequence has not been stated at all. Thus, it can be safely held that notice is vague and, as such, the entire proceeding stands vitiated. The issue is no longer *res integra* as this Court in several decisions has held that such vague notice would be violative of the mandatory provision contained in Clause 7(ii) of the PDS Control Order, 2001 requiring grant of reasonable opportunity to the licensee before the cancellation. 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)**.

Accordingly, it is held that the impugned order is not sustainable and, as such, the same is quashed and set aside. The licence of the petitioner is restored. However, the licensing

authority, if so desires, would be at liberty to initiate a fresh proceeding against the petitioner.

This writ application stands allowed to the aforesaid extent only.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
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