

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10768 of 2015

=====

Md. Israbul Haque son of Md. Abdul Jamil, resident of village- Sadbara (Singhwara), Police Station- Simari, District- Darbhanga.

.... Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
3. The District Magistrate, Darbhanga.
4. The Sub-Divisional Officer, Sadar, Darbhanga.
5. The Incharge Officer, Midday Meal Scheme.
6. The Block Supply Officer, Singhwara.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha

For the Respondent/s : Mr. GP26- N.K. SINGH

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 01-09-2016

Heard the parties.

Petitioner is aggrieved by Annexure-3 which is an order dated 18.12.2014 passed by the Licensing Authority, Sadar, Darbhanga by which PDS Licence No.10/07 has been cancelled.

Two grounds have been raised on behalf of the petitioner at the time of hearing. First is that the show cause notice is vague and does not appear to be issued for cancellation of licence. Another is that the license was cancelled on the ground that the FIR has been lodged under Section 7 of the Essential Commodities Act.



These issues having been decided on several occasions by this Court are now no longer *res integra*. If the show cause is vague and does not appear to be issued for cancellation of licence, the order of cancellation would have to be held not only in violation of principle of natural justice but also in clause of 7(ii) of the Control Order, 2011 as it cannot be held in such situation that adequate opportunity was granted to the petitioner for making out his case.

Secondly, this has also been held by this Court on several occasions that there is no mode of cancellation of licence in the Control Order, merely on the basis that FIR has been lodged against the licensee for contravention of the control orders.

In my view, the writ application succeeds on both counts. It appears from Annexure-1 that the notice was not only vague. It is also apparent from the impugned order that it has been passed on for the reason that FIR has been lodged against the petitioner under Section 7 of the Essential Commodities Act and other Sections of the Indian Penal Code which cannot be done in view of aforesaid decision.

Accordingly the impugned order is quashed and set aside. The licence of petitioner is restored.

However, this order would not come in way of the licensing authority in launching a fresh proceeding against the

petitioner in case there is contravention of the control order or any illegality has been committed by the petitioner. In such case the petitioner would have to be granted a reasonable opportunity as provided under clause 7(ii) of the Control order to defend his case.

(Dr. Ravi Ranjan, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	15.09.2016
Transmission Date	