

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13380 of 2015

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Sadhu Manjhi, Son of Late Badri Manjhi, resident of village- Mastpura, P.S.- Bodhgaya, District- Gaya

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar at Patna
2. The District Magistrate, Gaya
3. The Sub Divisional Officer, Sadar Gaya, Dist.- Gaya
4. The District Supply Officer, Gaya
5. The Block Supply Officer, Bodh Gaya, Dist.- Gaya

.... Respondents

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Appearance :

For the Petitioner : Mr. Binay Kumar, Advocate

For the State : Mr. Upendra Pratap Singh, A.C. to S.C. 4

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 17-11-2016

Heard parties.

Petitioner assails Annexure 3 which is an order dated 18.01.2012 passed by the Sub-Divisional Officer-cum-Licensing Authority, Sadar Gaya by which his licence no.56/07 granted for running PDS shop has been cancelled. He also assails the order dated 12.02.2015 passed in Supply Appeal No.24/2014 (Annexure 4) passed by the District Magistrate, Gaya by which his appeal has been dismissed and the order contained in Annexure 3 has been upheld.

Sole ground taken by the petitioner at the time of hearing is that show cause notice issued on 30.11.2011 is vague as it does not state anywhere that the same is being issued for the purpose of cancellation of licence.



This issue is no longer *res integra* as this Court on several occasions has held that if notice is vague and not issued for cancellation of licence then the entire proceeding stands vitiated as it would not only be in violation of principle of natural justice but also in violation of 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 29.06.2016 passed in C.W.J.C. No.7431 of 2016 (Vijendra Prasad Vs. The State of Bihar & Ors.).

Accordingly, it is held that the impugned orders, as contained in Annexure 3 and 4 are not sustainable and, as such, the same are quashed and set aside. Licence of the petitioner is restored. However, the Licensing Authority, if it so desires, would be at liberty to initiate a fresh proceeding against the petitioner.

The writ application stands allowed to the aforesaid extent.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
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