

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1744 of 2014

Chandra Bhushan Rai, Son of Sri Bhola Rai, Resident of Village - Gayaspur Mahaji, P.S. - Salimpur, District - Patna

.... Petitioner

Versus

- 1. The State Of Bihar through the Collector, Patna
- 2. The Sub Divisional Officer, Barh, Patna
- 3. The Additional District Supply Officer, Barh, Patna
- 4. The Block Supply Officer, Bakhtiyarpur, Patna

.... Respondents

with

Civil Writ Jurisdiction Case No. 1834 of 2014

Lalan Prasad, Son of Sri Shivjee Rai, Resident of Village- Kala Diayara, P.S.- Salimpur, District- Patna

.... Petitioner

Versus

- 1. The State Of Bihar through the Collector, Patna
- 2. The Sub Divisional Officer, Barh, Patna
- 3. The Additional District Supply Officer, Barh, Patna
- 4. The Block Supply Officer, Bakhtiyarpur, Patna

... Respondents

with

Civil Writ Jurisdiction Case No. 1988 of 2014

Ashok Kumar, Son Of Sri Shivjee Rai, Resident Of Village- Kala Diayara, P.S.- Salimpur, District- Patna

.... Petitioner

Versus

- 1. The State Of Bihar through the Collector, Patna
- 2. The Sub Divisional Officer, Barh, Patna
- 3. The Additional District Supply Officer, Barh, Patna
- 4. The Block Supply Officer, Bakhtiyarpur, Patna

.... Respondents

Appearance :

(In CWJC No.1744 of 2014)

For the Petitioner : Mr. N.K. Agarwal, Sr. Advocate
Mr. D. N. Tiwari, Advocate

For the State : Mr. Shailesh Kumar, A.C. to G.P. 20
(In CWJC No.1834 of 2014)

For the Petitioner : Mr. N.K. Agarwal, Sr. Advocate
Mr. D. N. Tiwari, Advocate

For the State : Mr. Balram Kapri, A.C. to G.P. 14

(In CWJC No.1988 of 2014)

For the Petitioner : Mr. N.K. Agarwal, Sr. Advocate
Mr. D. N. Tiwari, Advocate

For the State : Mr. Sanjay Kumar Jha, A.C. to G.P. 18

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT
Date: 05-07-2016

Heard parties.

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

Petitioners are aggrieved by the order dated 23.12.2013, as contained in Annexure 1 in all the writ petitions, passed by the Sub-Divisional Officer-cum-licensing authority, Barh by which their licence nos.255/07, 253/07 and 248/07 respectively granted for running a PDS shop have been cancelled.

It is contended on behalf of the petitioners that the order was passed without providing a copy of the report of the enquiry conducted by the Assistant District Supply Officer which has formed the basis of show cause notice as well as the order of cancellation. It is next contended that the show cause notice does not reveal that it was being issued for the proposed action of cancellation of licence and, thus, is vague.



Counter affidavit has been filed on behalf of the respondents. It has been stated in paragraph no.1 and 8 of the writ petition that the order of cancellation has been passed without providing a copy of enquiry report. The respondents have evaded to make a reply thereof and have only stated that sufficient opportunities were given to the petitioners as show cause notices were served upon them.

In my view, this vague reply is not going to help the State authorities. In the aforementioned fact and circumstances it has to be understood that they have not denied the allegations of the petitioners that a copy of the inquiry report was never served upon them either before show cause notice or even before passing of the order of cancellation and, thus, that has sufficiently prevented the petitioners from filing a proper reply to the show cause notice. It is next contended that even the show cause notice is vague and it does not appear from it that the same was ever issued for proposed action of cancellation.

Copies of the show cause notices have been appended as Annexure 2 and they appear to be a vague as they only disclose that if no satisfactory explanation was given then disciplinary action would be taken against the petitioners.

In my view, that would not be sufficient. 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)** holding that if show cause notice is not issued in contemplation of a proceeding for cancellation of licence and licence has been eventually cancelled then it has to be held that proceeding was on the basis of vague notice and without providing reasonable and adequate opportunity to the petitioners and, thus, it would be violation of the mandatory provision as contained in clause 7(ii) of the PDS (Control) Order, 2001.

Accordingly, it is held that the impugned orders are not sustainable and, as such, the same are quashed and set aside. The licences of the petitioners are restored. However, the licensing authority, if it so desires, would be at liberty to initiate a fresh proceeding against the petitioners.

These writ applications stand allowed to the aforesaid extent only.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	12.07.2016
Transmission Date	NA