

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2242 of 2014

Manoj Paswan, S/o Late Biro Paswan, Resident Of Village - Karhariya, Police Station - Banka, District - Banka

.... Petitioner

Versus

1. The State Of Bihar through the Secretary Food and Consumer Protection Department, Old Secretariat, Patna
2. The Collector, Banka, District - Banka
3. The Sub - Divisional Officer, Banka, Distt. - Banka

.... Respondents

Appearance :

For the Petitioner : Mr. Ajay Mukherjee, Advocate

For the State : Mr. Mritunjay Kumar, A.C. to A.A.G. 10

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 12-07-2016

Heard parties.

Petitioner seeks quashing of Annexure 1 by which his licence no.04/90 granted for running a PDS shop has been cancelled. He also assails Annexure 4 which is an appellate order dated 23.12.2013 by which the appeal has been dismissed and the order passed by the licensing authority has been upheld.

Sole ground raised by the petitioner at the time of



hearing is that the order of cancellation has been passed without any show cause notice issued to that effect. It is contended that both the show cause notices contained in Annexure 2 series are only for the purpose of purported action of suspension of licence and not for cancellation, therefore, order of cancellation is in violation of the mandatory provision as contained in clause 7(ii) of the Public Distribution System (Control) Order, 2001.

A counter affidavit has been filed on behalf of the State defending the action.

I find force in the submissions raised by the petitioner inasmuch as the impugned order passed by the licensing authority refers to two show cause notices dated 22.10.2011 and 17.11.2011. Both have been appended as Annexure 2 series. From perusal of the same it reveals that they have been issued for the purpose of suspension of licence and not for cancellation.

Thus, in my view, the order of cancellation could not have been passed on the basis of such show cause notices as 7(ii) of the Public Distribution System (Control) Order, 2001 requires that reasonable opportunity has to be provided to the licensee to explain his stand before taking a harsh step of cancellation of licence. That having not been done, in my view, entire proceeding stands vitiated.

Accordingly, the orders impugned are quashed and set aside. Since there is no show cause notice for cancellation, the licence of the petitioner has to be restored as about five years have already elapsed after cancellation of the licence.

This writ application stands allowed to the aforesaid extent only.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	AFR
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