

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11290 of 2014

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Bhudeo Prasad Yadav Son of Late Khushru Prasad Yadav Resident of
Village - Shihulia, P.O. Runghatta, P.S. Katoria, District - Banka

.... Petitioner

Versus

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

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate
For the State : Mr. Shiv Kumar, AC to GA 7

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

3 05-01-2016 Heard learned counsel for the petitioner and the
State.

The sole ground taken by the petitioner is that no
notice for proposed cancellation of the licence was ever
served upon him and the final order has been passed.

Time was granted to the State for filing counter
affidavit, however, the same has not been filed as yet.

Learned counsel for the State has submitted that the
notices which have been appended by the petitioner as
Annexures 2 and 3 indicate in clear terms that the same are
only for the purpose of proposed cancellation.

I do not find any force in such submission of learned



counsel for the State as Clause 7(ii) of the Public Distribution System (Control) Order, 2001 makes it mandatory that before taking any action for cancellation of licence with respect to any irregularity committed by a dealer, such dealer should be given reasonable opportunity to explain his/her case against the proposed cancellation.

The notices appended as Annexures 2 and 3 though indicate that there are allegations against the petitioner but they merely disclose as to why action should not be taken against him. It does not appear from the aforesaid notices that there is any proposal for cancellation of the licence. Thus, in my view, the impugned order (Annexure 1) cannot be sustained in the present form.

Accordingly, this application stands allowed and the order impugned as contained in Annexure 1 is quashed and set aside. However, this order would not come in the way of the licensing authority in issuing any fresh show-cause notice to the petitioner for cancellation of the licence in accordance with law, if it so desires and there are sufficient materials for doing that.

However, if no step for initiation of fresh proceeding by issuing a fresh notice for cancellation of the licence is

taken by the licensing authority within a period of two months from the date of receipt/production of a copy of this order, then the supplies to the petitioner should be resumed.

(Dr. Ravi Ranjan, J)

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