

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1887 of 2014

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Lakhan Paswan, Son of Shiva Paswan, Resident of Village- Ghangharia, P.S.-
Bodh Gaya, District- Gaya

.... Petitioner

Versus

1. The State Of Bihar
2. The Divisional Commissioner, Magadh Division, Gaya
3. The District Magistrate, Gaya
4. The Sub-Divisional Officer, Gaya
5. The Senior Deputy Collector, Sadar, Gaya
6. The Block Supply Officer, Bodh Gaya, Gaya

.... Respondents

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Appearance :

For the Petitioners	:	Mr. Sanjeev Kumar, Advocate
For the State	:	Mr. Ajay Bihari Sinha, S.C. 19, Mr. Suryakant Kumar, A.C. to S.C. 19

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 05-07-2016

Heard parties.

Petitioner's licence was cancelled vide Annexure 4 by the Sub-Divisional Officer-cum-Licensing Authority, Sadar Gaya. The supply appeal against the aforesaid order was also dismissed vide Annexure 5 dated 09.07.2014 by the District Magistrate, Gaya and the revision application was also dismissed vide Annexure 7 dated 27.12.2013 by the Commissioner, Magadh Division, Gaya.

Learned counsel for the petitioner takes sole ground at the time of hearing that the order passed by the Licensing Authority is unreasonable and unspeaking inasmuch as there is no consideration of

the grounds raised by the petitioner in his reply to the show cause notice. The appeal has been dismissed and the revision has also been dismissed on the ground that the petitioner could not attend on several dates, however, without touching the merit of the case.

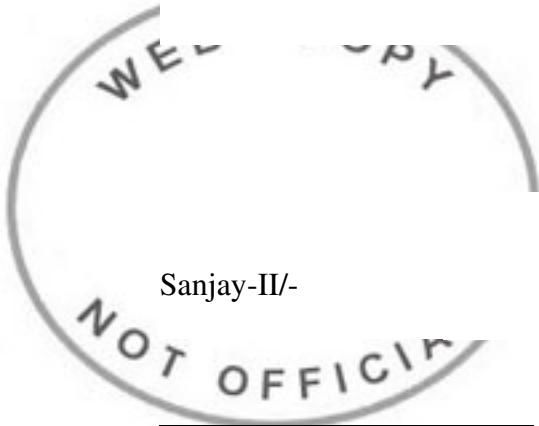
Counter affidavit has been filed on behalf of the respondent nos. 2 to 6 defending the action.

However, from perusal of the Annexure 4, i.e., the impugned order passed by the Licensing Authority, it does not appear that a reasoned order has been passed holding as to why the grounds raised by the petitioner in his reply could not be found tenable. Even if it is assumed that the petitioner has merely denied the allegation but that *ipso facto* does not render the allegation to be true. If there is allegation made in view of certain enquiry made against the licensee, then the Licensing Authority would not only be required to seek evidence from the licensee but would also consider the evidence which are available against him and without analyzing that, a person cannot be held to be guilty and saddled with the maximum punishment of cancellation of licence.

Accordingly, in my considered view, the impugned orders as contained in Annexure 4, 5 and 7 are not sustainable in their present form and are quashed and set aside. The matter is remitted back to the Licensing Authority for taking a fresh decision in

accordance with law within a period of three months.

Accordingly, this writ application stands allowed.



Sanjay-II/-

(Dr. Ravi Ranjan, J)

AFR/NAFR	NAFR
CAV DATE	NA
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