

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.24417 of 2013

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Ram Kumar Mochi, Son of Late Bunuk Mochi, Resident of Village - Chak, P.S.
Jalalgarh, District - Purnea

.... Petitioner

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Secretary, Department of Food and Civil Supplies, Government of Bihar,
Patna
3. The District Magistrate, Purnea, District - Purnea
4. The Sub-Divisional Officer, Purnea Sadar, District - Purnea
5. The Block Supply Inspector, Jalalgarh, District - Purnea

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Pushpendra Kumar Singh, Advocate
Mrs. Dibya Bharti, Advocate

For the Respondent/s : Mr. Balram Kapri, AC to GP-14

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 05-07-2016

Heard learned counsel for the petitioner and the State.

The petitioner seeks quashing of the order dated 3.05.2012, as contained in Annexure-1, passed by the Sub-Divisional Officer-cum-licensing authority, Purnea by which his licence granted for running P.D.S. shop has been cancelled.

The sole ground taken on behalf of the petitioner is that the order of cancellation is not speaking one and has been passed without consideration of his reply given to the two show cause notices.

A counter affidavit has been filed on behalf of respondent

nos.3, 4 and 5, however, learned counsel for the State has miserably failed to point out from the impugned order that the grounds raised by the petitioner in his reply to the show cause have been considered by the licensing authority while cancelling his licence.

It has discussed only the allegation against the petitioner that he is not depositing necessary amount for procuring food grains due to which the beneficiaries could not get Ration. But it has not even discussed as to what were the charges levelled in the show cause notice and how the petitioner has replied the same. In my view, such order cannot be sustained in law as the same is not only in violation of principles of natural justice but also in violation of Clause 7 (ii) of Public Distribution System (Control) Order, 2001 which mandates that a reasonable opportunity should be granted to a licensee for defending his case before cancellation of licence, which necessarily mean that the grounds raised in the reply to the show cause notice should be considered and speaking order should be passed.

Accordingly, this writ application succeeds. The impugned order as contained in Annexure-7 is quashed and set aside.

However, the matter is remitted back to the licensing authority for fresh consideration in accordance with law within a period of three months after considering the reply to the show cause filed by the petitioner. Since much time has elapsed after passing of

the impugned order, the petitioner should be granted one opportunity of being heard also before passing a final order.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
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