

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6716 of 2015

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Shambhu Sah. Son of Late Gainu Sah. Resident of Mohalla and Post - Ulaw,
Ward No.3, Nagar Nigam, P.S.- Mufassil, District - Begusarai.

.... Petitioner

Versus

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

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate
For the State : Mr. R.K.Priyadarshi, SC 32

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 05-01-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of Annexure 1 which is an order dated 14.4.2015 passed by the Sub Divisional Officer – cum – licensing authority, Begusarai by which his P.D.S. License No. 64/07 has been cancelled.

The sole question being raised by the petitioner in the matter is that the entire exercise has been completed and the licence has been cancelled without granting reasonable opportunity to the

petitioner to explain his case against the proposed cancellation inasmuch as no show cause notice for the proposed cancellation was ever issued against the petitioner.

Though indulgence was granted to the State for filing counter affidavit but the same has not been done as yet.

However, since it appears from the impugned order itself that the reference has been made to two show cause notices one dated 4.3.2015 and other dated 10.3.2015 both have been appended as Annexures 2 and 2A to the writ application but it does not appear from the perusal of both the notices that the same was issued in contemplation of proposed cancellation of licence of the petitioner, thus, this writ application has to succeed as it is apparent that the order impugned have been passed in violation of the mandatory requirement under Clause 7(II) of the Public Distribution System (Control) Order 2001.

As a result, the impugned order is quashed and set aside. However, the licensing authority may proceed afresh in accordance with law after issuing proper show cause notice upon the petitioner, if it so desires.

It is further made clear that if no further action is taken by the licensing authority in view of the liberty granted by this Court within a period of two months from the date of receipt / production of

a copy of this order then the supplies to the petitioner would have to be resumed.

(Dr. Ravi Ranjan, J)

Spd/-

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