

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12496 of 2015

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Dilip Kumar Yadav, Son of Late Chhatu Rai @ Chhatu Yadav, Resident of
Village - Jalalpur, P.S. - Doriganj, Distt. - Saran.

.... Petitioner

Versus

1. The State of Bihar through the Collector, Saran at Chapra.
2. The Collector, Saran at Chapra.
3. The Sub-Divisional Officer, Sadar, Saran at Chapra.
4. The Block Supply Officer, Sadar, Saran at Chapra.

.... Respondents

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Appearance :

For the Petitioner : Mr. D. N. Tiwari, Advocate

For the State : Mr. Jai Prakash Sharma, A.C. to G.P. XI

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 05-04-2016

Learned counsel for the petitioner wants to withdraw
the statement made in paragraph nos.15 and 17 of the writ petition.

Permission is accorded.

Accordingly, paragraph nos.15 and 17 stand deleted
from the writ petition.

Heard parties.

Sole ground taken by the petitioner at the time of
hearing that the order impugned has been passed without
consideration of the reply to the show cause notice filed on behalf of
the petitioner.

A counter affidavit has been filed on behalf of the State.
It is urged by the State that the petitioner has approached this Court



without availing the alternative statutory remedy of appeal. However, it is apparent from the impugned order, as contained in Annexure 1, as well as the reply to the show cause notice filed on behalf of the petitioner, as contained in Annexure 4, that there has been no consideration of Annexure 4 before cancellation of licence in its proper perspective inasmuch as only one sentence has been devoted that reply to the show cause notice has not been found satisfactory.

In my view, that would not be enough as some reason has to be assigned as to why the grounds taken by the petitioner have not been found tenable by the Licensing Authority. Thus, in my considered opinion, the impugned order is not sustainable in its present form being in violation of Clause 7(ii) of the Public Distribution System (Control) Order, 2001 under which the Licensing Authority is required to grant reasonable opportunity to the petitioner. The reasonable opportunity does not mean that only show cause notice has to be issued but consideration of the reply is also embedded in that. Since I have already held that impugned order is not sustainable, no purpose would be served if the petitioner is relegated to the appellate authority.

Accordingly, this writ application succeeds. The impugned order, as contained in Annexure 1, is quashed and set aside. The matter is remitted back to the Licensing Authority to take a fresh

decision after consideration of the reply to the show cause notice filed by the petitioner. It is expected that the whole exercise would be completed within a period of two months from the date of receipt/production of a copy of this order.

However, it is made clear that this order does not mean that there would be automatic resumption of the supplies to the petitioner as the same would depend upon the final view which would be taken by the licensing authority.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

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