

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2488 of 2014

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Jagat Narayan Singh, S/O Late Balbhadra Singh, Resident Of Village- Brahi Chintaman, Police Station- Majorganj, District- Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food and Civil Supply Department, Patna.
2. The S.D.O., Sitamarhi, Sadar.
3. The B.S.O. Suppli, District- Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Vijay Anand, Advocate
For the State	:	Mr. Y.P. Sinha, A.A.G. 15, Mr. Rakesh Ambastha, A.C. to A.A.G. 15

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 12-07-2016

Heard parties.

Petitioner seeks quashing of Annexure 3 which is an order dated 04.01.2014 passed by the Sub-Divisional Officer-cum-Licensing Authority, Sitamarhi Sadar by which his licence no.05/2007 granted for running a PDS shop has been cancelled.

Two grounds have been raised on behalf of the petitioner at the time of hearing. First is that the order has been passed without issuance of any show cause notice for proposed cancellation as the show cause notice indicates merely that he has to reply the allegation within 24 hours but no proposed action has been indicated, therefore, it is urged that the notice is vague. It is

next contended that copy of the inquiry report was never served upon the petitioner.

However, in my view, since the writ petition succeeds on the first ground itself, there would be no requirement for considering the second ground raised by the petitioner. The petitioner has placed reliance upon a decision of this Court dated 10.05.2013 passed in C.W.J.C. No.6388 of 2013, a copy of which has been appended as Annexure 4. It is held that basic requirement of fair play and principle of natural justice would be that show cause notice should not be vague. Clause 7(ii) of the Public Distribution System (Control) Order, 2001 indicates in clear term that the licensee should be granted reasonable opportunity to make out his case in a proceeding for proposed cancellation. However, the notice as contained in Annexure 1 which stands referred in the impugned order (Annexure 3) does not indicate any proposed action. It merely indicates that the petitioner was required to submit his explanation within 24 hours.

In my view, that notice cannot be considered for any proposed action of cancellation of licence of the petitioner and it has to be held that the entire impugned proceeding in which licence of the petitioner has been cancelled stands vitiated on account of aforesaid fatal lacuna as no notice was issued for proposed action

of cancellation of licence.

Having held so, in my view, the order cannot be sustained in the law and, accordingly, the same is quashed and set aside. The licence of the petitioner is restored immediately. However, this order would not come in the way of the authority if it proposes to initiate a fresh proceeding against the petitioner in accordance with law.

This writ application, accordingly, stands allowed.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
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