

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1991 of 2014

Santosh Kumar Choudhary, Son of Sri Banarsi Choudhary, Resident of Village-Khagra, Chaprasi Tola, Ward No.22, P.O.- Kishanganj, P.S.- Kishanganj, District-Kishanganj

.... Petitioner

Versus

1. The State Of Bihar, through the Collector, Kishanganj
2. The District Collector, Kishanganj
3. The Superintendent of Police Kishanganj
4. The Sub-Divisional Officer, Kishanganj
5. The Block Development Officer, Kishanganj
6. The District Supply Officer, Kishanganj
7. The Supply Inspector, Kishanganj
8. The Assistant Supply Officer, Kishanganj
9. The Officer-In-Charge, Kishanganj Police Station Kishanganj

.... Respondents

Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Senior Advocate
Mr. Dhananjaya Nath Tiwari, Advocate
For the Respondent/s : Mr. Sunil Kr. Mandal, SC-24
Mr. Bipin Kumar, AC to SC-24

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 19-07-2016

As prayed, learned counsel for the petitioner is permitted to delete respondent nos. 3 and 9 in course of the day.

Heard parties.

No counter affidavit has been filed on behalf of respondents except on behalf of Superintendent of Police, Kishanganj whose name has been deleted. In his counter affidavit, he has only stated that he has unnecessarily been impleaded as party. He has denied the action of lodging the FIR against the petitioner. However,

the issue of registering the FIR is not subject matter of the present case as the petitioner seeks quashing of the order passed by the Sub-Divisional Officer-cum-Licensing Authority, Kishanganj who has cancelled his licence vide Annexure-6 dated 10.07.2012.

The sole ground taken at the time of hearing is that though a show cause notice was issued upon the petitioner and a reply to the same was furnished by him, a copy of which has been appended as Annexure-5, but the grounds raised therein have not been considered by the licensing authority while passing the impugned order and, as such, the order impugned is not only in violation of principles of natural justice but also in violation of the mandatory provision contained in Clause 7 (II) of Public Distribution System (Control) Order, 2001.

I find force in the submission raised on behalf of the petitioner. The licensing authority has merely stated that reply is not satisfactory. In my view, such consideration would not be enough in view of the provisions contained in Clause 7 (ii) of the aforesaid Control Order, 2001 which mandates that reasonable opportunity should be granted to a licensee for defending his case before cancellation of licence. That necessarily means that the grounds raised in the reply to the show cause notice should be considered and speaking order should be passed. Such step is lacking in the impugned

order and, as such, the same cannot be sustained in law.

Accordingly, the impugned order as contained in Annexure-6 is 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 from the date of receipt/production of a copy of this order. However, the decision should be a reasoned and speaking one after consideration of the grounds raised in the reply.

It is made clear that simply registering the FIR cannot be a ground for cancellation of licence as there is a provision under Clause 14 of the Public Distribution System (Control) Order, 2001 for cancellation of licence only after there is conviction.

This application stands allowed.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	5.08.2016
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