

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3506 of 2015

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Lakhan Sah Son of Late Kaleshwar Sah Resident of village - Radhanagar,
Post and P.S. Katoria, District - Banka

.... Petitioner

Versus

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

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Advocate
For the Respondent/s : Mr. Purnendu Singh, G.P.-27
Mrs. Sunita Kumari, AC to GP-27

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

5 09-02-2016 Heard learned counsel for the petitioner and the State.

The petitioner seeks quashing of the order dated 14.02.2015 as contained in Annexure-1 passed by the Sub-Divisional Officer-cum-licensing authority, Banka by which his licence no.10/12 granted for running P.D.S. shop has been cancelled.

The sole ground being raised on behalf of the petitioner is that the order of cancellation of licence was passed without granting any reasonable opportunity to the petitioner to explain his stand for the proposed cancellation as no proper show cause notice for the same was ever issued and served upon him.

The issue is no longer *res integra* as it is well settled



that for cancellation of P.D.S. licence under Clause 7 (ii) of the Public Distribution System (Control) Order, 2001, a show cause notice for proposed cancellation has to be taken so that a proper reply could be filed by the licensee. A vague notice without specifying the purpose for which it is being issued, would not be sufficient. One of such order has been appended as Annexure-4 and another one has produced at the time of hearing which is an order dated 5.01.2016 passed in CWJC No.5033 of 2015.

Accordingly, this writ application succeeds. The impugned order as contained in Annexure-1 is quashed and set aside.

However, the matter is remitted back to the licensing authority for fresh consideration in accordance with law. He would supply a copy of the inquiry report and grant another opportunity to the petitioner to file a reply to the show cause notice and upon consideration of grounds raised by him and the materials available on record, a fresh and reasoned order would be required to be passed by him.

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.

It is made clear that this Court has not formed or

expressed any opinion with regard to the merit of the case of the petitioner.

Further, this order would not mean automatic resumption of the supply to the petitioner as the same would depend upon the nature of the order which would finally be passed by the licensing authority.

However, in case the matter is not brought to its logical conclusion within two months then the petitioner would be entitled for the resumption of supplies subject to the result of the case.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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