

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2166 of 2014

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Md. Safdar Imam S/O Late Md. Moinuddin Resident Of Village- Kathari, Police
Station- Chandauti, District- Gaya

.... Petitioner

Versus

1. The State Of Bihar Through The Principal Secretary Department Of Food And
Consumer Protection, Government Of Bihar, Patna
2. The District Magistrate/Collector, Gaya
3. The Sub-Divisional Officer, Sadar Gaya, District- Gaya
4. The Executive Magistrate, Sadar Gaya, District- Gaya
5. The Block Supply Officer, Town Block, District- Gaya

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Binay Kumar, Advocate
For the State	:	M/s M.K.Mishra, GP 25 Gopi Jha, Rajesh Kr. Sinha, AC to GP 25

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 12-07-2016

Heard parties.

Petitioner seeks quashing of order dated 1.3.2012
contained in Annexure 4 passed by the Sub Divisional Officer – cum
– licensing authority, Gaya by which he has affirmed his earlier order
of cancellation of licence of the petitioner granted for running PDS
shop.

It is contended that petitioner's licence was cancelled
by earlier order dated 5.8.2008 contained in annexure 2 which was
assailed in Supply Appeal No. 40/09. The appeal was allowed vide

order dated 7.10.2011 (Annexure 3). The order impugned was quashed and set aside and the matter was remitted back for fresh consideration.

It is contended that the order is cryptic in nature as it is unreasoned, non speaking and the licensing authority has affirmed his earlier order as if the same was still under existence even after having been set aside by the appellate authority.

I find force in the submission raised on behalf of the petitioner as the order impugned is non speaking and not a reasoned one. That apart, after the earlier order having been set aside, in my considered view the licensing authority was required to apply his mind afresh in the matter and pass a reasoned order after consideration of all the materials on records which has not been done by him and he has simply affirmed the earlier order which has been set aside by the appellate authority.

Accordingly, this writ application succeeds. The order impugned is quashed and set aside.

The matter is remitted back to the licensing authority to take fresh decision in accordance with law. Since the petitioner has raised the issue that the copy of the inquiry report was never served upon him, let a copy of the inquiry report be supplied to the petitioner and further grant him reasonable opportunity to file a

reply to the show cause notice given to him. Thereafter, the final decision should be taken by the licensing authority in accordance with law after considering the materials on record and also the grounds which would be raised by the petitioner in his reply.

It is expected that that the whole exercise would be completed within a period of three months from the date of receipt / production of a copy of this order.

However, since the matter is old, it is made clear that if no decision is taken within the aforesaid period of three months then licence of the petitioner would be required to be restored but the same would be the subject to the final decision taken by the licensing authority. However, it is further made clear that if the petitioner tries to delay the matter by not filing reply and unnecessarily taking adjournments or if the reply is not filed within the reasonable time then the licensing authority would be at liberty to proceed without waiting for that.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
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