

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.405 of 2016

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Tara Self Help Group through its Secretary Chandrika Manjhi, son of Late Videshi Manjhi, Resident of village- Kharauna, P.S.- Tankuppa, District- Gaya

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumers Protection, Government of Bihar, Patna

2. The District Magistrate, Gaya

3. The Sub-Divisional Officer, Sadar Gaya, District- Gaya

4. The Block Supply Officer, Tankuppa, Dist.- Gaya

.... Respondents

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Appearance :

For the Petitioner : Mr. Amarnath Singh, Advocate

: Mr. Binay Kumar, Advocate

For the State : Mr. Asit Kumar Jha, AC to GP 6

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 16-03-2016

Heard learned counsel for the petitioner.

The petitioner is permitted to make necessary correction with respect to the description of the petitioner in course of the day. A fresh vakalatnama has also been filed.

Heard the parties. Petitioner is aggrieved by the order dated 30.06.2015 as contained in Annexure-3, by which the Sub-Divisional Officer-cum-Licensing Authority, Sadar Gaya has cancelled the licence no. 02/2009 issued to the petitioner for running the P.D.S shop under Public Distribution System (Control) Order, 2001.



Two grounds have been raised on behalf of the petitioner. First is that the action of cancellation of licence has been taken without issuance of a proper show-cause notice in this regard. Secondly, it is contended that even a reply to the show-cause notice, a copy of which has been appended as Annexure-2, has not been considered by the Licensing Authority in its proper perspective.

A counter affidavit has been filed on behalf of the State.

By now, it is well settled that for contemplated action of cancellation of licence, a vague show-cause notice would not be sufficient. The show-cause contained in Annexure 1 is merely in form of seeking explanation as to why proper action should not be taken against him.

Petitioner has referred an unreported decision of this Court dated 05.01.2016 rendered in *CWJC no. 11290 of 2014 (Bhudeo Prasad Yadav v. State of Bihar and others)* to show that for the purpose of cancellation of licence, proper and specific show-cause notice disclosing that the same is being issued in contemplation of cancellation of licence would be necessary to

enable the licensee to make out his case as a reasonable opportunity has to be given to him for that purpose under Clause 7 (ii) of the Bihar Public Distribution System (Control) Order, 2007 before issuing any order for cancellation.

In my view, Annexure-1, being a vague notice and not specific that it is being issued for cancellation of licence, would not be sufficient and as such the action of cancellation of licence would be bad on that count itself. Secondly, it is well settled that if any action or order of authority is going to visit civil consequences upon a person or a party then consideration of his reply to the show-cause notice issued in this regard would be necessary to disclose as to why the grounds raised by him/ her in the reply are not found tenable by the Licensing Authority.

In the case in hand, only one sentence has been devoted in this regard that the reply filed is not satisfactory which would not be enough. Thus, on both counts, this writ application has to succeed.

Accordingly, the impugned order as contained in Annexure-3 is quashed and set aside. However, this order would not come in way of the Licensing Authority, if it decides to issue

fresh show-cause in accordance with law for the same purpose.
However, if no proceeding is initiated within two months from the date of receipt/ production of a copy of this order, then the petitioner would be entitled for resumption of supplies.

(Dr. Ravi Ranjan, J.)

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