

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7860 of 2014

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Ramchandra Keshari, S/o Late Dorika Prasad Keshari, R/o Village - Sahsol, P.O.
& P.S. Basanahi, District - Saharsa

.... Petitioner

Versus

1. The State of Bihar through the Collector, Saharsa
2. The Commissioner, Koshi Division, Saharsa
3. The Collector, Saharsa
4. The Sub Divisional Officer, Saharsa
5. The Block Supply Officer, Sonbarsa, Distt. - Saharsa

.... Respondents

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Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Advocate
Dr. Rajesh Kumar Singh, Advocate
For the Respondent/s : Mr. Shashi Shekhar Pd. Sinha, AC to GA-6

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 17-11-2016

Heard parties.

Through this writ application, the petitioner assails the order dated 16.08.2012 passed by the Sub-Divisional Officer-cum-Licensing Authority, Sadar, Saharsa, as contained in Annexure-3, the appellate order dated 30.09.2013 passed by the District Magistrate-cum-Collector, as contained in Annexure-2 and the order dated 13.01.2014 passed by the Commissioner, Koshi Division, Saharsa, as contained in Annexure-1 by which the petitioner's PDS licence has been cancelled and such order passed by the Sub-Divisional Officer has been upheld by the appellate authority in appeal and also the Commissioner in revision.

The petitioner assails the impugned orders on diverse grounds. First ground taken by the petitioner is that the order of



cancellation of licence has been passed without initiating any proceeding of cancellation as show cause notices issued to the petitioner, as contained in Annexure-9 and 10, do not disclose that the same was being issued in a proceeding for cancellation of licence rather the same merely disclose that if reply is not filed then the same would be notified to the Commissioner for taking action.

It is next contended that even grounds raised in the reply filed by the petitioner has not been considered at all while cancelling the licence one sentence is there in the impugned order stating that the grounds raised in the reply filed by the petitioner are not found satisfactory.

It appears that the District Magistrate in his appellate order and the Commissioner in his revisional order had justified the impugned order passed by the licensing authority by passing long orders but there is no answer to the aforesaid query.

The issue is no longer *res integra* as it is well settled that unless specific show cause notice for cancellation is issued it cannot be held that reasonable and adequate opportunity was given to the licensee under Clause 7 (ii) of the Public Distribution System (Control) Order, 2001 for submitting his case. A reference in this regard is made to the decisions of this Court dated 19.01.2016 passed in CWJC No.6826/2015 and CWJC No.6388 of 2013. Secondly, it is also well settled that if show cause notice is issued and a reply is submitted then before cancelling the licence the grounds raised in the



reply has to be dealt with by the licensing authority and it should record reason as to why those grounds could not be found tenable. A reference in this regard is made to a Division Bench decision rendered in **1999 (1) BLJ 548**. That apart the show cause notice is also vague and does not appear to have been issued in a proceeding for cancellation of licence.

Accordingly, in my view, the orders impugned are not sustainable in the eye of law on both counts.

In the result, this writ application succeeds. The impugned orders as contained in Annexure-1, 2 and 3 are quashed and set aside.

Since the petitioner claims that his shop stands closed for about four years in view of such cancellation order which has not been found sustainable in law, since already there is much atonement, supply to the petitioner is to be restored immediately.

However, it is made clear that this order would not come in the way of the licensing authority in initiation of any fresh proceeding, if it so desires, but in such case a reasonable opportunity would have to be provided to the petitioner.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	27.12.2016
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