

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16981 of 2015

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Kumari Sita wife of Ashok Kumar Das resident of Village & P.O. - Salempur, P.S.
- Amarpur, District - Banka.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Food & Consumer Protection Department, Government of Bihar, Old Secretariat, Patna.
3. The Collector, Banka.
4. The Sub-Divisional Officer, Banka.
5. The Block Supply Officer, Amarpur Block, Banka.

.... Respondents

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Appearance :

For the Petitioner : Mr. Manoj Kumar Jha, Advocate
For the State : Mr. Syed Arshad Alam, SC3,
Mr. Mahfoozur Rahman, J.C. to S.C. 3

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 09-02-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the Annexure 5 which is an order dated 21.05.2015 passed by the Sub-Divisional Officer-cum-licensing authority, Banka by which his PDS licence no.09/96 has been cancelled with immediate effect.

Sole ground raised on behalf of the petitioner in course of the hearing is that there is no consideration of the reply filed by the petitioner to the show cause notice.

Per contra, learned counsel appearing for the State has submitted that a detail reasoned order has been passed in this case,

therefore, the petitioner cannot say that there is no consideration. He submits that the petitioner was repeatedly committing mistake and, therefore, action against him was required.

Be that as it may, it is well settled that before cancellation of the licence reasonable opportunity should be given to the petitioner to state his case which stands embodied in Clause 7(ii) of the Public Distribution System (Control) Order, 2001. Granting reasonable opportunity necessarily means that the show cause notice should be given to the petitioner setting out the charges and supplying the necessary documents in support of his charges and further granting reasonable time for filing a reply. After reply is filed by the licensee then there should be consideration in accordance with law and if the grounds raised are to be rejected then, at least in brief, reasons should be recorded as to why the grounds raised by the licensee have not been found tenable.

From the perusal of the lengthy order which has been passed by the authority, it does not appear that there has been any consideration of the grounds raised by the petitioner in his reply either to the first show cause notice or the last show cause notice.

In my considered opinion, the impugned order cannot be sustained in law and, accordingly, the same is quashed and set aside. However, the matter is remitted back to the Licensing Authority to

consider the matter afresh and pass a reasoned order after considering the grounds raised by the petitioner in his reply to the show cause notice. Let the entire exercise be completed within a period of two months from the date of receipt/production of a copy of this order. This is further made clear that this order does not mean that there would be automatic resumption of supplies to the petitioner as the same would depend upon the final order which would be passed by the authority. However, if no such decision is taken within a period of two months then the supplies to the petitioner would have to be resumed but the same would be subject to the result of the final decision which would be taken by the Licensing Authority.

Accordingly, this writ petition is allowed to the extent as indicated above.

(Dr. Ravi Ranjan, J)

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