

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.98 of 2016

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Kapildeo Saw, Son of Late Khopadi Saw, resident of Village- Bariyarpur
Lakshmipur, Post Office- Parar, Police Station- Piri Bazar, District- Lakhisarai.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food, Supply and Consumer Department, Government of Bihar Patna.
2. The District Level Selection Committee, through the District Magistrate, Lakhisarai.
3. The Collector, Lakhisarai.
4. The Sub Divisional Officer, Lakhisarai, District- Lakhisarai.
5. The Block Supply Officer, District- Lakhisarai.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shyam Kumar Singh, Advocate

For the Respondent/s : Mr. Chandra Shekhar Singh, AC to GP-16

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 03-02-2016

Heard learned counsel for the petitioner and the State.

The petitioner seeks quashing of Annexure-1 which is an order dated 16.10.2014 passed by the Sub-Divisional Officer-cum-Licensing Authority, Lakhisarai by which his licence no.19/1991 granted for running PDS shop has been cancelled with immediate effect.

It is contended on behalf of the petitioner that a notice was earlier issued on 13.09.2014 only granting 24 hours time for responding to it, however, the petitioner filed his reply on 22.09.2014 which was disbelieved and his licence was cancelled. However, at the

time of hearing, learned counsel for the petitioner has raised sole question that it does not appear from Annexure-1, i.e., the show cause notice that it was issued in contemplation of a proceeding for cancellation of his licence.

Learned counsel for the State has submitted that the petitioner has got a statutory remedy of appeal under Section 15 of the Bihar Public Distribution System (Control) Order, 2001 but without availing such remedy, he has approached this Court, however, in view of the fact that the sole issue having been raised by the petitioner is no longer *res integra* as it is well settled that, for cancellation of licence, the provisions as contained in Section 7 (II) of the Control Order has to be followed by the Licensing Authority granting reasonable opportunity to the licensee for setting out its case against the proposed cancellation. From the show-cause notice, it appears that an explanation was sought which has been replied by the petitioner but there is no show-cause notice for proposed cancellation of the licence of the petitioner for granting him reasonable opportunity for setting out his case. In such a situation, when the order impugned suffers from the aforesaid fatal flaw and also is, thus, in teeth of the principle of natural justice, there is no reason for relegating the petitioner to the statutory appellate authority.

Accordingly, this writ application is allowed. The

impugned order is quashed and set aside.

However, the authority concerned would be at liberty to issue a fresh show cause notice setting out the charge in clear terms and serving a copy of the enquiry report, if any, or the complaints made by the beneficiaries, if any, along with the show cause notice and, thereafter, granting reasonable period to the petitioner to respond to it. Thereafter, upon consideration of the reply, a final order would be passed by the authority in accordance with law.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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