

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5033 of 2015

Suresh Yadav, Son of Late Ramtahal Yadav, Resident of Village and Post- Ranga,
P.S.- Belhar, District- Banka.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Banka, District- Banka.
3. The Sub-Divisional Officer, Banka, District-Banka.

.... Respondents

Appearance :

For the Petitioner : Mr. Chandra Moleshwar, Advocate

For the Respondent/s : Mr. R.R.K. Pandey, SC-29

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 05-01-2016

Heard learned counsel for the petitioner and the State.

The petitioner is aggrieved by Annexure-1 which is the order dated 22.02.2015 by which his licence granted for running the P.D.S. shop has been cancelled.

The sole question being raised on behalf of the petitioner is that the order of cancellation was passed without granting any reasonable opportunity to the petitioner to explain his stand for the proposed cancellation as no show cause notice for the same was ever issued and served upon him.

A stand has been taken by the State in the counter affidavit that show cause was issued vide Annexure-2. The same view appears



from the impugned order also, however, from perusal of Annexure-2, it does not appear that it was a show cause notice for the proposed cancellation. Of course, it speaks about certain irregularities which were found during inspection of the petitioner's shop but petitioner was directed to report after curing of all the defects pointed out by the authority concerned. There is no whisper in the show cause notice that there is any proposal for cancellation of licence. Thus, in my view, the order impugned can not be sustained in view of the mandatory provision under Clause 7(ii) of the Public Distribution System (Control) Order, 2001.

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

However, the Licensing Authority may proceed to issue fresh show cause notice in accordance with law and initiate a fresh proceeding against the petitioner, if it so desires but, at the same time, it is made clear that if such action is not taken within two months from the date of receipt/production of a copy of this order then supply to the petitioner would have to be resumed.

(Dr. Ravi Ranjan, J)

Brajesh/V.K.Pandey

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