

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3633 of 2015

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Devendra Prasad Singh S/o - Late Mahavir Pd Singh Resident of Vill - Sawalpur,
P.S. - Moro Kahi, Distt. - Khagaria.

.... Petitioner

Versus

1. The State of Bihar.
2. The Distt. Magistrate, Khagaria.
3. The Sub Divisional Officer, Khagaria.
4. The Block Development Officer cum Block Supply Officer, Khagaria.

.... Respondents

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Appearance :

For the Petitioner : M/s Ashok Kumar Mishra and
Binod Kumar, Advocates

For the Respondent/s : Mr. Sanjay Kumar Singh, AC to AAG 12

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 03-05-2016

Heard the parties.

Petitioner is aggrieved by the order dated 28.10.2013 passed by the Sub Divisional Officer-cum-Licensing Officer, Khagaria, as contained in Annexure 4, by which his P.D.S. Licence No. 117K/2007 granted for running a PDS shop has been cancelled. Petitioner's appeal has also been dismissed by the appellate authority vide Annexure 5 dated 17.01.2015. Both the orders have been assailed by filing the present writ application.

However, at the time of hearing, two questions have been raised on behalf of the petitioner. First is as to whether closure of the shop on one occasion would be enough for taking stern action of

cancellation of licence of the petitioner? Second question is as to whether the show-cause was vague not indicating that it was being issued for cancellation of licence of the petitioner and, as such, the entire proceeding would stand vitiated?

From perusal of the impugned order as contained in Annexure 4 passed by the licensing authority, it emanates that before taking action for cancellation of the licence, a show-cause notice was issued upon the petitioner under memo no. 755 dated 29.09.2013 a copy of which has been appended as Annexure 3 to the writ petition. However, it only indicates that the petitioner was directed to show-cause regarding the shop which was found to be closed on 19.09.2013. It does not indicate that it was in contemplation of a proceeding for cancellation of the licence of the petitioner.

This issue is no longer *res integra*. It has been held on several occasions by this Court that show-cause notice should not be vague and adequate opportunity should be given to the licensee in a proceeding in contemplation of cancellation of such licence in terms of Clause 7(ii) of the Public Distribution System(Control) Order, 2001. If the notice is vague then it cannot be held that reasonable opportunity was given to the licensee to defend his case. Secondly, a Division Bench of this Court has held in **Turant Lal Paswan v.**

The State of Bihar and others (2012(3) PLJR 583) that one day’s closure of the PDS shop cannot be treated to be such a serious irregularity requiring stern action of cancellation of licence.

Accordingly, this writ application succeeds on both the counts and the impugned orders as contained in Annexures 4 and 5 are quashed and set aside.

However, this will not disentitle the licensing authority to act in accordance with law on the complaint of the public including that of Bishundeo Thakur by making a proper inquiry and issuing fresh show-cause if the authority concerned so desires.

(Dr. Ravi Ranjan, J)

SC/-

AFR/NAFR	N.A.F.R.
CAV DATE	NA
Uploading Date	17.05.2016
Transmission Date	NA