

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 16976 of 2016

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Anil Kuamr Srivastava S/o Late Mahatma Prasad Srivastava, Resident
of Village- Harkhauli, P.S.- Mirganj, District- Gopalganj.

.... Petitioner.

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer protection Department, Govt. of Bihar, Patna.
2. The Commissioner, Saran Division, Chapra.
3. The Collector cum District Magistrate, Gopalganj at Gopalganj.
4. The Sub Divisional Officer, Hathua, District Gopalganj.
5. The Block Supply Officer, Uchakagaon, District- Gopalganj.
6. The Block Supply Inspector, Uchakagaon, District- Gopalganj.

.... Respondents

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Appearance :

For the Petitioner : Mr. Uday Pratap Singh, Adv.

: Mr. Praveen Kumar, Adv.

For the Respondents: Mr. S. Raza Ahmad, Sr. Adv., AAG-5

: Mr. Anisul Haque, AC to AAG-5.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 01-12-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the order dated
10.09.2016, as contained in Annexure-4, by which his PDS
licence No. 49 of 2007 has been cancelled.

It is urged that the licence has been cancelled on the
basis of the spot inspection/verification done by the Minister,
Food and Consumer Protection Department, Government of
Bihar who is not an authority to do that. Secondly, it is stated



that even the copies of the complaint made before the Minister by certain beneficiaries were not provided to the petitioner.

That apart, the petitioner has submitted his reply to the show cause notice along with affidavit sworn by the beneficiaries made in his favour who had allegedly raised same allegation before the Minister of the concerned Department. However, that has been brushed aside on the ground that the signatures are forged.

In my view, such stand cannot be taken by the licensing authority without any proper verification. If allegation of fraud is made then that it has to be proved also. There is nothing on record to show that under what circumstances the licensing authority has come to the conclusion that the signatures made on the affidavit are forged. The counter affidavit also does not disclose any cogent material.

Thus, I find force in the submission raised on behalf of the petitioner that in fact no inquiry has been made by the competent authority and without making any inquiry, on the basis of the fact that some persons had alleged something against the petitioner before the Minister, Food and Consumer Protection Department, Government of Bihar, the order of cancellation has been passed without even considering the reply



filed by the petitioner. Reply to the show cause notice was not considered by the licensing authorities rather it was given to the Block Supply Officer, Uchakagaon, for his opinion, which is also not permissible as Section 20 of the Bihar Targeted Public Distribution System (Control) Order, 2015 lays down in clear terms that only the competent authorities are entitled to make inspection. Section 31 further lays down that who are having power of search and seizure. The name and designation of the Minister of the department does not appear or mentioned there.

As a result, this writ petition succeeds and the impugned order, as contained in Annexure-4 is quashed and set aside.

This writ petition stands allowed.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
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