

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17903 of 2015

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Indra Devi wife of Yogendra Prasad Singh, resident of Village- Saidpur, P.S.-
Manshi, District- Khagaria

.... Petitioner

Versus

1. The State of Bihar through D.M. Khagaria
2. The SDO, Khagaria

.... Respondents

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Appearance :

For the Petitioner : Mr. Vijay Anand, Advocate
For the Respondents : Mr. Aditya Nath Jha, AC to SC 18

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 08-12-2016

Heard parties.

The petitioner is aggrieved by the order dated 29.5.2015 passed by the Sub Divisional Officer, Khagaria by which his PDS Licence No. 19M/2007 has been cancelled.

Petitioner has raised two points for consideration.

First is that, though a show cause notice was issued vide Annexure 2 and he has filed a detailed reply, none of the grounds raised by the petitioner has been considered by the licensing authority and as such the order suffers from vice of arbitrariness.

Second ground raised by the petitioner is that registration of First Information Report under section 7 of the



Essential Commodities Act would not automatically entail cancellation of licence as there is no such provision in the PDS Control Order 2001. Even under the Bihar Targeted PDS Control Order, 2015, also, the order is not sustainable.

Learned counsel appearing for the State has submitted that the petitioner has filed this writ application without preferring statutory appeal and as such he should be relegated to the appellate authority.

I find force in the submission made on behalf of the petitioner that the order impugned suffers from vice of arbitrariness as there is no consideration of the grounds raised by the petitioner in his reply to the show cause notice at all. Only one sentence is devoted that the reply filed by the petitioner is not satisfactory.

It is well settled that in the cases in which the order or action of the concerned authority would have a civil consequence then issuance of show cause notice is must and consideration of the grounds raised in his reply would also be mandatory. It has to be stated by assigning reason as to why grounds raised by such person are not found tenable so that superior authority or the court could know as to what was there in the mind of the concerned authority while taking such decision in case the order is assailed before a competent forum. A reference in this regard is made in a decision of



Division Bench of this Court rendered in **M/s Umesh Chandra Dinesh Kumar Vs. The State of Bihar & ors. [1999(1) BLJ 548]**.

Even if a First Information Report was lodged against the petitioner under section 7 of the Essential Commodities Act, on that ground also there cannot be any cancellation of licence. From perusal of First Information Report one can of course come to the conclusion that the prima facie what are the allegations being levelled by the informant but that does not mean that the charges are proved. Therefore, under Clause 14 of the PDS Control Order 2001, it has been provided that if the licensee is convicted under the provisions of E.C. Act then the licensing authority, by taking a decision in writing, would cancel the licence but it cannot be done after registration of First Information Report itself. Since the aforesaid view of this Court is covered by catena of decisions of this Court, in my view, even though the petitioner has not invoked appellate jurisdiction and has come directly, it is meaningless to relegate him before the appellate authority in the facts and circumstances of the case.

As a result this writ application succeeds. The order impugned is quashed and set aside.

The matter is remitted back to the Licensing Authority to take a fresh decision in accordance with law within a



period of three months from the date of receipt/production of a copy
of this order.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.03.2017
Transmission Date	NA

