

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7154 of 2014

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Dev Narayan Rai Son Of Late Ram Swarup Rai Resident Of Village+ P.O- Arrot,
Police Station- Rosera, District- Samastipur.

.... Petitioner

Versus

1. The State Of Bihar
2. The District Collector, Samastipur.
3. The District Supply Officer, Samastipur.
4. The Sub- Divisional Officer, Rosera, Samastipur.
5. The Block Supply Officer, Jahangir Narayanpur, Rosera, Samastipur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate
For the Respondents : M/s Rishi Raj Sinha, SC 19
Archana Prasad, AC to SC 19

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 24-11-2016

Heard parties.

Petitioner's PDS Licence No. 122/2007 has been cancelled by an order dated 29.10.2012 passed by the Sub Divisional Officer – cum – licensing authority, Rosera (Annexure 3). The appeal filed by the petitioner has also been dismissed vide Annexure 5 dated 11.02.2014 passed by Collector, Samastipur.

Form perusal of the impugned order contained in Annexure 3, it appears that on the complaint made by Vigilance Committee Panchayat, inquiry was held by the Block Supply Officer, Rosera. On that basis a show cause notice was issued to the petitioner



who filed his reply. Thereafter, again the opinion of the Block Supply Officer, Rosera was sought by the licensing authority upon the reply which was submitted by the petitioner who had recommended for his cancellation and on that recommendation, it appears that the licence has been cancelled.

In my view, such action by the licensing authority is not in accordance with the provisions of law as licensing authority does not have to bank upon some body's opinion for canceling a licence rather he would have to apply his own mind upon the reply filed by the licensee to a show cause notice issued in a proceeding for cancellation of licence. That apart, the grounds taken in reply by the petitioner have not at all been even noticed and considered by him rather was sent for the opinion of the Block Supply Officer who had recommended for cancellation and, thus, he has cancelled the licence. The appellate authority also does not appear to have considered the aforesaid aspect of the matter.

In my considered opinion, such action of the authorities would have to be held arbitrary, *de hors* the provision of law and, thus, both the impugned orders are not sustainable in the eye of law. Accordingly, the impugned orders contained in Annexure 3 and 5 are quashed and set aside.

Since the licence of the petitioner has remained



cancelled since 2012, i.e., for about 4 years, the same now has to be restored immediately and the supplies would have to be resumed.

This writ application stands allowed.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
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