

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 16266 of 2016

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Premchand Bhuiyan son of Late Navrangi Bhuiyan, Resident of Village- Paner, Police Station- Magadh University Bodh Gaya, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Food and Consumers Protection, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub- Divisional Officer, Sadar Gaya, District- Gaya.
4. The District Panchayati Raj Officer, Dist.- Gaya.
5. The Block Supply Officer, Bodh Gaya, Dist- Gaya.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Binay Kumar, Adv.

For the Respondents: Mr. Upendra Pratap Singh, AC to SC4

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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 18.01.2014 passed by the Sub-divisional Officer, Gaya as contained in Annexure-3 by which the PDS licence was cancelled as well as the appellate order dated 21.05.2015 passed by the District Magistrate, Gaya, as contained in Annexure-4 by which Appeal No. 09 of 2014 has been dismissed as also the revisional order dated 07.09.2016 passed by the Divisional



Commissioner, Magadh Division, Gaya in Supply Revision Case No. 135 of 2015, as contained in Annexure-5 by which the aforesaid order as well as appellate order have been upheld and the revision petition has been dismissed.

The sole ground raised by the petitioner at the time of hearing is that the show cause notice is vague as it has not been issued for the purpose of cancellation of licence. The Clause 7(ii) of the PDS (Control) Order, 2001 lays down in clear terms that before cancellation of licence reasonable opportunity should be granted to the licensee to reply that it is against the proposed cancellation.

I find force in the submission raised on behalf of the petitioner that show cause notice only shows that if he does not submit his reply then action would be taken in accordance with law. Thus, in my view, the aforesaid show cause notice is vague. The Clause 7(ii) of the Public Distribution System (Control) Order, 2001 lays down in clear terms that before cancellation of licence reasonable opportunity should be granted to the licensee to reply that it is against the proposed cancellation.

The issue is no longer *res integra* as it is well settled that for cancellation of P.D.S. licence under Clause 7 (ii) of the Public Distribution System (Control) Order, 2001, a show cause



notice for proposed cancellation has to be issued so that a proper reply could be filed by the licensee. A vague notice without specifying the purpose for which it is being issued, would not be sufficient. A reference in this regard is made to a decision of this Court dated 19.01.2016 passed in CWJC No.6826/2015.

Accordingly, in my view, the orders impugned are not sustainable in the eye of law. In the result, this writ application succeeds. The impugned orders as contained in Annexure-3, 4 and 5 are quashed and set aside. Since there was no notice for cancellation of licence, the petitioner’s licence is to be restored immediately.

However, this order would not come in the way of the licensing authority in initiation of any fresh proceeding, if it so desires.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
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