

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9744 of 2016

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Raj Kumar Paswan 1, S/o Mohit Paswan, Resident of Village- Malpur, Morshand,
P.S.- Pusa, Block- Pusa, District- Samastipur.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Samastipur.
3. The Sub-Divisional Magistrate, Samastipur.
4. The District Supply Officer, Samastipur.
5. The Block Supply Officer, Block Pusa, District Samastipur
6. The Block Development Officer, Pusa- Samastipur.

.... Respondents

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Appearance :

For the Petitioner : Mr. D. N. Tiwari,
Mr. Prem Prakash Poddar, Advocates

For the State : Mr. Naman Nayak, A.C. to A.A.G. 10

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT
Date: 13-12-2016

Heard parties.

The petitioner is aggrieved by Annexure-3 which is an order dated 26.02.2016 passed by the Sub-Divisional Officer-cum-Licensing Authority, Samastipur by which his PDS Licence No.75 of 2008 has been cancelled.

It is contended that the notice issued for the said purpose



is vague as it does not state anywhere that the same is being issued for the purpose of cancellation of licence.

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 an unreported decision of this Court dated 24.08.2016 passed in CWJC No.11229 of 2016.

Learned counsel for the State has not been able to show even from the counter affidavit that such show cause notice for proposed cancellation was ever given to the petitioner.

Accordingly, in my view, the order impugned is not sustainable in the eye of law.

As a result, this writ application succeeds. The impugned order dated 26.02.2016, as contained in Annexure-3, is 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 in accordance



with law, if it so desires, but in such case a reasonable opportunity would be required to be granted to the petitioner.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
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