

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1514 of 2017

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Navin Prasad Sah son of Ganesh Sah resident of village - Vijay Nagar, P.S. Banka,
P.O. Banka, District - Banka.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar.
2. The Principal Secretary, Department of Food and Civil Supplies, Government of Bihar.
3. The District Magistrate, Banka.
4. The Sub Divisional Officer, Banka.
5. The Block Supply Officer, Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Shilpi Keshri, Adv.

For the Respondent/s : Mr. Alok Ranjan, AC to GA-6

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 04-05-2017

Heard learned counsel for the petitioner and counsel for
the State.

In this case, the petitioner is challenging the order
contained in Memo No. 348 dated 14.03.2016, whereby and
whereunder, the S.D.O., Banka, has cancelled the license of the
petitioner for certain illegality and irregularity committee by the
petitioner.

The proceeding was initiated on the basis of enquiry
report, show-cause mentioning charges was asked from the petitioner,
the explanation was not found satisfactory, petitioner was directed to



produce stock register, distribution register, paid coupon and cash memo which were not submitted by the petitioner. Without discussing the merit as also without going into the depth in the matter, the license has been cancelled by the S.D.O., Banak vide order dated 14.03.2016.

Learned counsel for the petitioner submits that the petitioner was entitled to have a copy of the enquiry report which was the basis for initiation of proceeding which was not served upon him.

Learned counsel for the State submits that during enquiry it was found that the petitioner was not running the shop in terms of the license as well as control order and the petitioner has committed illegality which was mentioned in the show-cause itself. The petitioner has not produced the record and, on that account, adverse inference was drawn against him but, from the order, it appears that the licensing authority has not gone into the matter on the merit, recorded the allegation made against him, whereafter, recorded that the petitioner has not produced the record which became the basis for cancellation of the license but, instead thereof, the Licensing Authority should have discussed the matter reasonably and properly after giving a report to the petitioner and was to sought an explanation on that report, should have discussed the matter in detail and, only thereafter, a reasoned order should have been passed but, the order, in question, is totally a cryptic order, not giving any reason, does not disclose the



living link between the decision maker and the decision, giving reason is a part of natural justice as has been held in the case of *P.C. Kakkar Vs. Chairman and Managing Director, United Commercial Bank & Ors.* reported in 2003 (4) 364 Para-15 and in the case of *J. Ashoka Vs. University of Agricultural Sciences & Ors.* reported in 2017 (1) PLJR 242 SC Para-18.

In that view of the matter, the order contained in Memo No. 348 dated 14.03.2016 is set aside.

The petitioner is directed to produce the stock register, distribution register, paid coupon and cash memo, before the licensing authority. If the petitioner fails to produce the same, adverse inference shall be drawn against the petitioner. Further the S.D.O., Banka is also directed to serve a copy of the enquiry report upon the petitioner and, after giving proper hearing, he shall pass a reasoned order after discussing the merit of the case.

With the aforementioned observation and direction, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.05.2017
Transmission Date	NA

