

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 11882 of 2016

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Sarita Devi Wife of Sri Lalbau Paswan Resident of village-
Majhigama, Post- Pindaruch, P.S. - Kewatti, District-Darbhangha.
.... Petitioner.

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
 2. The Commissioner, Darbhanga Division, Darbhanga
 3. The Collector and District Magistrate, Darbhanga, District-Darbhangha
 4. The Sub- Divisional Officer- Sadar, Darbhanga, District- Darbhanga
.... Respondents.
- =====

Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Adv.

For the Respondents: Mr. Upendra Kumar Singh, AC to GA-8

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 10-01-2017

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of Annexure-1 which is an order dated 21.02.2014 passed by the Sub-Divisional Officer-cum-Licensing Authority, Sadar, Darbhanga by which his licence granted for running a PDS Shop No. 59 of 2007 has been cancelled. He also assails the order dated 05.06.2015, as contained in Annexure-4, passed by the District Magistrate, Darbhanga who happens to be the appellate authority, by which he has dismissed the appeal and upheld the order of the licensing authority. He further assails the order dated 17.03.2016, as contained in Annexure-5, passed by the Divisional



Commissioner, Darbhanga Division by which he has dismissed the revision and upheld the order of the appellate authority.

It is contended that the order is based upon the inquiry conducted by the Deputy Director, Darbhanga Division, Darbhanga and the Marketing Officer, Headquarter Darbhanga. The show cause notice was also issued by the Deputy Director and it is apparent from the impugned order itself that the said inquiry was made by the District Supply Officer, Darbhanga who had transmitted the report along with his opinion to the Licensing Authority. It is urged that the Deputy Director and the Marketing Officer were not authorized to hold any inquiry and issue show cause notice. It appears that he had given direction to the Licensing Authority to act in a particular manner.

The issue is no longer *res integra* as a learned Single Judge of this Court in its judgment dated 07.04.2015 rendered in **CWJC No. 489 of 2014 (Santosh Kumar Ram vs. The State of Bihar)** has already held that the Deputy Director has no jurisdiction to proceed on the complaint under the provision of Control Order. It is licensing authority who is empowered to proceed to cancel the licence in accordance with law after following the procedure, thus, the exercise by the Deputy Director in proceeding on the complaint was without sanctity of law. That apart, there is no show cause notice



issued by the Sub-divisional Officer. A copy of the notice which has been brought as Annexure-B/1 appended to the counter affidavit also does not disclose that it was issued for the purpose of cancellation of licence and the same was also vague.

As a result, this writ petition stands allowed. The impugned orders, as contained in Annexure-1, 4 and 5 are quashed and set aside being unsustainable in eye of law. The licence of the petitioner stands restored. He is entitled for immediate resumption of supplies.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
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