

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 11860 of 2016

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Yogendra Thakur Son of Late Sita Ram Thakur Resident of Village-
Suryapura, P.S.- Basantpur, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Saran Division, Chapra.
3. The District Magistrate, Siwan.
4. The District Supply Officer, Siwan.
5. The Sub-Divisional Officer, Maharajganj, Siwan.
6. The Block Development Officer, Basantpur Block Siwan.
7. The Block Supply Officer, Basantpur, Siwan.

.... Respondents

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Appearance :

For the Petitioner : Mr. Digvijay Pratap Singh

For the Respondents: Mr. SC4- MD.RAISUL HAQUE

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 28-01-2017

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of Annexure-3 which is an order dated 12.11.2014 passed by the Sub-Divisional Officer-cum-Licensing Authority, Maharajganj, Siwan by which his licence granted for running a PDS Shop No. 24 of 2007 has been cancelled. He also assails the order dated 15.12.2015, as contained in Annexure-2, passed by the District Magistrate, Siwan 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 28.03.2016, as contained in Annexure-1, passed by the Divisional Commissioner, Saran Division by which he has dismissed the revision and upheld the order of the appellate authority.

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 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 is allowed and the impugned orders as contained in Annexure-1, 2 and 3 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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