

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2980 of 2016

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Basanti Devi W/o Late Nunu Paswan, resident of village- Helarpur,
Grampanchayat- Ibrahimpur, P.S.- Kurtha, Distt.- Arwal.... Petitioner.

Versus

1. The State of Bihar through the Secretary, Food & Consumer
Protection Department, Bihar, Patna.
 2. The Commissioner, Magadh Division, Gaya.
 3. The District Magistrate-cum-Collector, Arwal.
 4. The Sub-Divisional Officer, Arwal.
 5. The Block Supply Officer, Kurtha, Arwal. Respondents.
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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Adv.

For the Respondents: Mr. Ajay Bihari Sinha, GA-8

: Mr. Suryakant Kumar, AC to GA-8

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 17-01-2017

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of Annexure-6 which is an order dated 20.07.2011 passed by the Sub-Divisional Officer-cum-Licensing Authority, Arwal by which his licence granted for running a PDS Shop No. 03 of 1998 has been cancelled. He also assails the order dated 02.06.2012, as contained in Annexure-7, passed by the District Magistrate, Arwal 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 10.11.2015, as contained in Annexure-8, passed by the Divisional Commissioner, Gaya Division by which he has dismissed the revision and upheld the order of the appellate authority.



It does not appear from Annexure-1 or Annexure-4 that any show cause notice was issued in contemplation of proposed action of cancellation of licence.

The issue is no longer *res integra* as this Court has held on several occasions that unless specific notice for cancellation is issued it cannot be held that reasonable and adequate opportunity was given to the licensee to make out his case in a proceeding for proposed cancellation. 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 order impugned is not sustainable in the eye of law. In the result, this writ application is allowed and the impugned order as contained in Annexure-6, 7 and 8 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, if it so desires.

Vikash/-

(Dr. Ravi Ranjan, J.)

AFR/NAFR	NAFR
CAV DATE	NA
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