

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2176 of 2016

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Radhey Shyam Yadav son of Sri Bachcha Yadav, resident of village- Basudeopur,
P.S.- Bahadurpur, District- Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Food and Civil Supply,
Govt. of Bihar
2. Commissioner Darbhanga Division, Darbhanga
3. District Magistrate, Darbhanga
4. SDO, Sadar Darbhanga cum Licensing Authority

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. A.K. Thakur, Adv. Mr. Amit Kumar, Adv.
For the State	:	Mr. P.K. Verma, AAG-3 Ms. Divya Verma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 06-04-2017

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

In this case, the petitioner is challenging the order dated
2.1.2016 passed by the S.D.O., Sadar, Darbhanga cum Licensing
Authority contained in Memo No.12 dated 4.1.2016, whereby and
whereunder, the P.D.S. Licence of the petitioner bearing License No.
78/07 has been cancelled.

The petitioner is running a P.D.S. shop bearing Licence
No. 78/07, an enquiry was conducted, it was found that the petitioner
was indulged in illegal activity in not running the shop in terms of the



licence as well as P.D.S. Control Order, 2001. In the enquiry report it has also been recorded that the shop was found closed on the day of inspection. A grievance has been raised by the petitioner that the enquiry report is the basis for initiation of a proceeding which ultimately resulted in cancellation of the licence of the petitioner, has not been served upon him. Learned counsel for the petitioner has pointed out that it appears that the licence of the petitioner has been cancelled on the direction of the Collector which has been mentioned in paragraph no.8 of the impugned order referring letter no. 706/C dated 22.2.2015.

The counsel for the petitioner submits that the order of the S.D.O., Sadar, Darbuanga suffers from illegality, firstly, on the ground that he has acted at the behest of the direction of the Collector who is the appellate authority and, secondly, the copy of the enquiry report has not been served upon the petitioner.

Learned counsel for the State submits that the Memo No. 706/C dated 22.2.2015 is the enquiry report is an error of record committed by the S.D.O., Sadar, Darbhanga.

Be that as it may, the order contained in Memo No. 706/C dated 22.2.2015 itself indicates that the action has been taken at the behest of the Collector as well as the enquiry report, which is the basis for initiation of proceeding, has not been served upon the



petitioner. In that view of the matter, the order contained in Memo No. 706/C dated 22.6.2015 is set aside the matter is remanded back to the S.D.O., Darbhanga who, after giving a copy of the enquiry report to the petitioner, will decide the case on the basis of material available on record and not on the direction which has been given by the Collector.

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

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.04.2017
Transmission Date	NA

