

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5997 of 2016

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Baliram Paswan, Son of Lalmuni Paswan, R/o Village Mora Tal, P.S. Bodh Gaya,
District Gaya

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Govt of Bihar, Patna
2. The District Magistrate, Gaya
3. The District Supply Officer, Gaya
4. The Sub Divisional Officer, Sadar, Gaya
5. The Block Development Officer, Bodh Gaya, District Gaya
6. The Block Supply Officer, Bodh Gaya, District Gaya

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajendra Prasad, Advocate
For the State : Mr. Rishi Raj Sinha, S.C. 19,
Mr. Avanindra Kr. Jha, A.C. to S.C. 19

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 28-01-2017

As prayed, learned counsel for the petitioner is permitted to properly mark Annexure appended with the supplementary affidavit.

Heard learned counsel for the petitioner and the State.

The petitioner seeks quashing of the order dated 13.07.2011 (Annexure 7) passed by the licensing authority-cum-Sub-Divisional Officer, Sadar Gaya. Petitioner also challenges the order passed by the appellate authority in appeal no.19/12 which was preferred by him against the aforesaid order passed by the licensing



authority but the same was dismissed vide Annexure 12.

Learned counsel for the petitioner raises two issues in the writ application. First is that the grounds taken by the petitioner in reply to the show cause notice have not been considered by the licensing authority as no specific finding has been recorded on such grounds. Secondly, it is urged that even on the charge nos.1 and 2 no specific finding has been recorded by the Licensing Authority. Learned counsel for the petitioner, in support of the aforesaid submission, places reliance upon a decision of this Court rendered in **Sri Ram Keshri Vs. The State of Bihar and Ors. [2012(2)PLJR 719]**.

Mr. Rishi Raj Sinha, learned S.C. 19 appears and submits that the petitioner has approached this Court without availing statutory remedy of revision provided in Public Distribution System (Control) Order, 2001. Therefore, it is urged that he should be relegated to the revisional authority.

However, on perusal of the order passed by the Licensing Authority, it is apparent that no finding has been recorded upon the charge nos.1 and 2 as shown in the show cause notice dated 25.07.2007. Secondly, so far charge no.3 is concerned, the petitioner's answer in paragraph no.5 of the Annexure 3, which is reply to the show cause notice clearly stating that neither red card was received



nor was foodgrains were received by him and, as such, that was not supplied and he regularly supplies all the foodgrains without any complaint by any beneficiaries, have not at all been considered and answered as to why the same was not found tenable by the Licensing Authority.

Thus, in my view, the order impugned suffers from the vice of arbitrariness as the same is not only in teeth of the aforesaid decision of this Court but also a decision of the Division Bench of this Court rendered in **M/s. Umesh Chandra Dinesh Kumar Vs. State of Bihar and others [1999(1)BLJ 548]** holding that non-consideration of the averments made in the reply to the show cause notice is a serious lacuna in exercise of the jurisdiction and indicates towards non-application of mind, therefore, the order of cancellation would stand vitiated.

Accordingly, both the orders, i.e., Annexure 7 and 12 are quashed and set aside. The matter is remitted back to the Licensing Authority to take a fresh decision in accordance with law. The final order passed should be specific and reasoned one considering the grounds raised by the petitioner in his reply. It is made clear that the entire exercise would be completed within a period of three months from the date of receipt/production of a copy of this order.

It is further made clear that if no order is passed within the



aforesaid period after production of a copy of this order as per the direction of this Court then the licence of the petitioner would automatically stand restored subject to the final order that may ultimately be passed by the Licensing Authority.

This writ application stands allowed.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.05.2017
Transmission Date	NA

