

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11602 of 2016

- =====
- 1(a) Mukesh Kumar, son of late Shankar Singh.
(b) Rupesh Kumar, son of late Shankar Singh.
(c) Rajesh Kumar, son of late Shankar Singh.
(d) Ritesh Kumar, son of Late Shankar Singh.
(e) Mithilesh Kumar, son of Late Shankar Singh.
(f) Bhuti Kumar, son of late Shankar Singh.
All resident of Village Suryapura, P.S. Basantpur, Dist. 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.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Digvijay Pratap Singh

For the Respondent/s : Mr. Sanjay Kumar, AC to SC5

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date: 04-07-2017

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

In the present case, the petitioners are challenging the order of the S.D.O., Maharajganj, dated 12.11.2014, whereby and whereunder, he has cancelled the licence of the petitioner. The appellate authority vide order dated 15.12.2012 has affirmed the order



of the S.D.O. cum Licensing Authority and the Revisional Authority has also vide order dated 28.3.2016 affirmed both the orders.

In this case, from the records it appears that a team constituted by the Collector has visited the shop of the petitioner on 6.9.2014 which was found closed, during inspection, the statement of certain consumers were recorded who had made a complaint that the petitioner was not distributing the consumer goods to them properly, whereafter, the S.D.O., Maharajganj, Siwan, vide letter dated 9.10.2014, has asked a show-cause from the petitioner with respect to the mentioned irregularities committed by the petitioner. The petitioner has given reply, wherein, he has taken a stand that he had gone to Bank to deposit the E-Challan and, with regard to notice board, as per direction of the Department, had kept the notice board in the shop. The petitioner has lifted the ration for four months which was in the process of distribution and he has also submitted that there might be some mistake in making entry in the record and requested to drop the proceeding. The S.D.O. has passed a detailed order wherein recorded his own findings and rejected the explanation of the petitioner.

In the counter affidavit, it has been stated that the proceeding has been initiated on the basis of report submitted by the Committee constituted by the District Magistrate. The Committee



submitted the report to the District Magistrate, Siwan which is the basis for initiation of proceeding against the petitioner. In the show-cause notice also, the S.D.O. has not mentioned about the cancellation of the licence, merely has pointed out irregularities without indicating the consequence of said irregularities. In terms of Section 7(2) of the Control Order, 2001, while issuing the show-cause, proposed action has to be recorded against the Licence Holder.

The order of the S.D.O., Maharajganj, Siwan, suffers from illegality on two counts, first, the show-cause was given without attaching the report and secondly he has not indicated about the proposed action be taken against him. The Collector and the Commissioner have also not recorded their independent findings on the charges laid against the petitioner, merely both the authorities have only reiterated the order passed by the S.D.O. It was the duty of the appellate authority as well as the revisional authority while dealing with a case, they should have recorded its own independent findings. The Revisional Commissioner recorded defence of the petitioner and grounds taken by the petitioner but, instead of recording his finding, he has merely affirmed the order of the appellate authority, inasmuch as, the order of the appellate authority does not reflect his own finding. The procedure that has been adopted is completely suffers from illegality, right from the issuance of the



show-cause.

In that view of the mater, let the S.D.O., Maharajganj, Siwan, should give a proper show-cause to the petitioner attaching the copy of the enquiry report and will take a decision in accordance with law.

Accordingly, the order of the S.D.O., Maharajganj, Siwan dated 12.11.2014, the appellate order dated 15.12.2015 as also the revisional order dated 28.03.2016 are set aside.

With the aforementioned observation and direction, this application is allowed to the aforementioned extent.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.07.2017
Transmission Date	NA

