

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13821 of 2016

=====

Rajbanshi Prasad Son of Sri Ramdhyan Prasad Resident of village - Khoripakar,
P.S. Basantpur, District - Siwan

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Food and Civil Supplies, Government of Bihar, Patna
2. The Deputy Director, Food and Civil Supplies, Government of Bihar, Patna
3. The Collector - Cum - District Magistrate, Siwan
4. The District Supply officer, Siwan
5. The Sub - Divisional officer, Maharajganj, District Siwan
6. The Block Supply Officer, Basantpur, District Siwan

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Naresh Prasad, Adv.
For the Respondent/s : Mr. Sanjay Kr.Giri-GP9
Mr. Nikhil Kr. Agarwal

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 15-09-2017

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

In this case, the petitioner is challenging the show-cause notice dated 11.6.2013 and finally the order of Sub-Divisional Officer, Maharajganj dated 22.6.2013, whereby and whereunder, the license of the petitioner has been cancelled. The petitioner filed an appeal which has also been rejected.

From the show-cause, it appears that the Executive Officer, Maharajganj and Block Supply Officer, Lakriganj has made an inspection of the shop of the petitioner on 7.6.2013 and it



was found that the shop of the petitioner was closed and the petitioner was absent and, on that account, the verification of the records was not done but, apart from two charges, other three charges have been mentioned that the petitioner has failed to distribute the consumer items of the months of July, August and September, 2013 to the B.P.L. beneficiaries, has supplied 2.5 litre in place of 2.75 liters of kerosene oil and was not maintaining proper weight machine as per the requirement of Weight and Measure Department.

The petitioner filed show-cause, he has taken a plea that suddenly he had fallen ill and had gone to the hospital for his treatment and, on that account, he was not present at his shop and he denied the rest of the charges. The S.D.O., Maharajganj, Siwan passed the order and the Collector, Siwan affirmed the same.

From the charge-sheet, it appears that three absurd charges have been framed against the petitioner in the sense that S.D.O., Maharajganj issued the show-cause on 11.6.2013, whereas, it has been mentioned that he has not distributed the grains for the month of July, August and September, 2013 which did not happen on the day of issuance of charges. The question of distribution of grain for those months did not arise. So far charge no.4 is concerned, he has not recorded on what basis he has arrived to a finding of less supply of kerosene oil and the fifth one, when the shop itself was found



closed, how the Authority could examine that he was not keeping proper weight as per the requirement. This aspect of the matter has not been gone into either by the S.D.O., Maharajganj, Siwan or by the Appellate Authority.

In that view of the matter, the order of the Appellate Authority dated 27.11.2015 as also the order dated 22.6.2013 passed by the S.D.O., Maharajganj, Swian suffer from illegality and, thus, cannot be sustained and both the orders are set aside and the license of the petitioner is restored.

In the result, this writ application stands allowed to the aforementioned extent.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.09.2017
Transmission Date	NA

