

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11906 of 2016

=====

1. Ratan Lal Yadav Son of Sri Deep Narayan Yadav Resident of Village - Kenduar,
Post - Bhairoganj, P.S. - Chandan, District - Banka.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector, Banka, District - Banka.
3. The Licensing Authority-Cum-Sub-Divisional Officer, Banka, District - Banka.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh

For the State : Mr. Pankaj Kumar Singh, AC to GA-9

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 09-08-2017

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

In the present case, petitioner is challenging the order dated
26.2.2016 passed by the Collector, Banka in E.C. Misc. Appeal
No.6 of 2011-12 by which his appeal has been rejected thereby
confirmed the order dated 15.3.2011 passed by the Sub
Divisional Officer, Banka by which he has cancelled the licence
of the petitioner.

It appears that for certain misdemeanor the petitioner was
served a letter vide letter dated 15.2.2011 mentioning therein
charges, asked show cause why licence of the petitioner be not put
under suspension. Allegation has been made that those who are



beneficiaries of Antodaya Yojna were not supplied the proper quantity of food grains. Notice board, stock register and distributing registered were not maintained properly. The petitioner gave reply and instead of passing the order of suspension the Sub Divisional Officer vide memo no.226 dated 15.3.2011 passed the order of cancellation of licence. Against that order the petitioner moved to the appellate authority and the appellate authority has confirmed the order of the Sub Divisional Officer.

Learned counsel for the petitioner submits that show-cause notice was issued for proposed punishment of suspension but final order has been passed for cancellation of licence. In terms of the Bihar Fair Price Shop Dealer, 2007 before its amendment there could have been suspension as well as cancellation of the licence but in both situation show-cause was required to be served and it not so, if show cause has been issued the order for suspension, order of cancellation would not be passed.

Learned counsel for the State has tried to justify the action of the licensing authority as well as appellate authority.

It is well known principle of law that the competent authority while taking particular nature action should have issued the show-cause for that proposed action but he cannot take action



which had/has not been mentioned in show cause. In this present case, show cause was issued for suspension, in such circumstances, the authority should have restrained to pass the order of cancellation and it was bounden duty of the authority that before cancelling the licence the same should have been informed to the petitioner of proposed punishment.

In such view of the matter, the orders dated 15.3.2011 and 26.2.2016 passed by the Sub Divisional Officer, Banka as well as Collector, Banka are set aside. The matter is remanded back to the Sub Divisional Officer, Banka. He, if so like, may draw a proper proceeding and take action in accordance with law.

With the aforesaid observation this writ petition is allowed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.08.2017
Transmission Date	NA

