

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14449 of 2016

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Mahendra Chaudhary S/o Sri Ram Avtar Chaudhary resident of Village-
Fulwariya, Tara Adda, P.S.- Fulwariya, District- Begusarai.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department, Government of Bihar, Patna.
2. The District Magistrate, Begusarai.
3. The Sub-Divisional Officer-cum-Licensing Authority, Teghra, District- Begusarai.
4. The Block Supply Officer, Teghra Block, District- Begusarai.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ajay Kumar Singh, Advocate

For the Respondents : Mr. Upendra Pratap Singh, AC to SC 4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 24-11-2017

The present writ petition has been filed for the following
reliefs-

- (i) *For quashing of the order dated 28.12.2015 contained in memo no. 418 issued by the Respondent no. 3, the Sub-Divisional Officer, Teghra, whereby, exercising power under Section 7(i), (ii) and (iii) of the PDS Control Order, 2001 has cancelled the P.D.S. License bearing License No. 14 of 1993 with immediate effect.*
- (ii) *For further quashing the appellate order dated 05.04.2016 passed by the District Magistrate, Begusarai (Respondent no. 2) in Misc. Appeal No. 06/2016, whereby while dismissing the appeal preferred by the petitioner, the appellate authority has declined to interfere with the order passed by*



the licensing authority and thereby has affirmed the order of cancellation of P.D.S License.

(iii) For further direction upon the respondent authorities to restore the P.D.S. License of the petitioner and allow him to lift the articles and run the P.D.S. shop.

(iv) For grant of such other relief(s) for which the petitioner is found to be entitled in the facts and circumstances of the case.

2. Learned counsel for the petitioner raises two short grounds to assail the impugned order of cancellation of the P.D.S. License, that one of the grounds for cancellation namely, alleged irregularity in distribution of food grains of PHH being made, was not stated in the show cause notice; and that the impugned order was passed without granting any opportunity of hearing to the petitioner.

3. A counter affidavit has been filed on behalf of the respondents but, however, the stand of the petitioner in the above regard has not been controverted.

4. Having heard learned counsel for the parties and on consideration of the materials on record, this Court finds merit in the writ petition. It is well settled that the reasons which weighed with the authority in passing an order adverse to the petitioner cannot travel beyond the show cause notice as that would amount to passing an order without confronting the petitioner with a specific allegation in that regard. Similarly, passing an order against the petitioner without



proper and adequate opportunity of hearing violates the principles of natural justice which vitiates the decision making process, which cannot also be cured at the appellate stage.

5. The impugned order dated 28.12.2015 passed by the Sub-Divisional Officer, Teghra as well as the order of appellate authority dated 05.04.2016 passed by the Collector, Begusarai affirming the original order, are hereby set aside and the matter remanded to the Sub-Divisional Officer, Teghra for taking a fresh decision in the matter after giving proper show cause to the petitioner and affording a proper opportunity of hearing in accordance with law.

6. In the meantime, the P.D.S. License shall be restored and the petitioner be permitted to lift the articles for running the P.D.S. shop until fresh orders passed by the Sub-Divisional Officer, Teghra.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	29.11.2017
Transmission Date	N.A.

