

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17863 of 2015

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Ramesh Singh Son of late Raghunath Singh, resident of Village-Ganguli, Post Office-Bansohi, Police Station- Masrakh, District-Saran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Food and Civil supply Department , Government of Bihar, Patna.
2. The Commissioner, Saran Division, Chapra.
3. The District Magistrate , Saran Chapra.
4. The Sub-Divisional Officer, Marhaura, District Saran.
5. The District Supply Officer, District Saran, Chapra.
6. The Block Supply Officer, Masrakh, Saran (Chapra)

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Sandip Singh and Shekhar Harswardhan, Advs.

For the Respondent/s : Mr. Anil Kumar, GP-23

Mr. Sanjay Kumar, AC to GP-23

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 11-05-2017

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

In this case, the petitioner is a License Holder, vide
License No. 41 of 2007, running a PDS shop at Gangauli Panchayat,
Police Station-Mashrak, Block-Mashrak.

An inspection was conducted on 8th December 2010
on that day, the shop of the petitioner was found closed whereupon
the show cause was issued wherein three charges were made (i) on the
day of the inspection, the shop was found closed and license holder
was absent (ii) in the display board, the rate of goods was not
mentioned and (iii) on account of his absence, the Stock Register and



Supply Register could not be examined and the family members of the petitioner have refused to produce the records for examination.

The petitioner has filed his show cause taking a plea that it was one day closure on account of the fact that he had gone to the Bank for preparation of Bank Draft lifting the Antyodaya goods. The records were also produced for examination. During the course of investigation of records, the Sub-Divisional Officer found certain additional irregularities, became main basis for arriving to a finding adverse against the petitioner and without considering grounds which he has raised in the appeal the Appellate Authority passed a cryptic order.

The counsel for the petitioner submits that the petitioner has been running the shop since long years, but never any complaint was received against him inasmuch as the Division Bench of this Court in C.W.J.C. No. 10213 of 2010 (Turant Lal Paswan vs. State of Bihar) reported in 2012 (3) PLJR 583, has taken a view that one day closure cannot be a basis for passing the order of cancellation of license. He also submits that in the impugned order, the Licensing Authority and Appellate Authority basically mentioned three additional charges, which were not part of the earlier show cause placing reliance on those charges which were not part of show cause passed order by them, which violates the principle of natural justice.



The counsel for the State submits that there is no violation of natural justice, the petitioner was given show cause, as his shop was found closed on the day of inspection i.e. 08.12.2010 and when the petitioner has produced the records, the Authority has found the petitioner has committed additional misconduct, on that account, the action has been taken.

The issue with regard to the closure of one day cannot be a basis for initiation of proceeding has already been decided in 2012 (3) PLJR 583 (supra) where the Division Bench of this Court has held that for any human consideration, the License Holder closed his shop for one day cannot be a basis for initiation of a proceeding. Further if the Authority after examination of the record, found the petitioner has committed additional misconduct, which are very serious in nature, cannot be a basis for cancellation of a license. It was required by the Licensing Authority that before taking any action on those purported charges, should have been informed to the petitioner and only then, the Authority could have taken action for additional charge.

Admittedly in the present case, the Respondents have not given any show cause for those charges, which have been mentioned in the order of Licensing Authority as well as in the order of Appellate Authority.



In such view of the matter, the impugned order is set aside, the matter is remanded back to the Licensing Authority, if so advised, may issue a fresh show cause with regard to the additional charges and after giving proper hearing, may take decision by passing a reasoned order as one day closure cannot be subject matter of initiating of proceeding for cancellation of license in view of the authoritative pronouncement of the Division Bench of this Court.

With the above observation/direction, this petition is disposed of.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16.05.2017
Transmission Date	N/A

