

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5034 of 2014

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Upendra Kumar Son Of Late Jhulan Prasad Resident Of Village - Mirzapur
Nohata, Police Station - Fathua, District - Patna

.... Petitioner/s

Versus

1. The State Of Bihar through the Secretary Food & Consumer Protection,
Old Secretariate, Patna
2. The S.D.O., Patna City
3. The B.S.O., Fathua

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Anand, Adv.

Mr. Sarita Kumari, Adv.

For the Respondent/s : Mr. Rakesh Prabhat, AC to SC 21

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

5 07-09-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner is aggrieved by an order dated 27.01.2014 passed by the SDO, Patna City as contained in Memo No. 91 whereby and wherunder the PDS licence of the petitioner within the Nagar Panchayat, Fathua has been cancelled on the ground that the petitioner is showing less interest to operate his PDS shop.

Learned counsel for the petitioner submits that his PDS shop had been found closed on account of his illness for which he has duly informed the authorities. Thereafter, the petitioner had been unwell for a considerable length of time for which he has filed the relevant documents i.e. medical



prescription etc. Learned counsel for the petitioner further submits that without considering all such facts and circumstances of the case, notice was issued to him and though the same was not received, the petitioner's PDS licence was cancelled after a lapse of one week as stated in the notice. It is further submitted that the petitioner had on getting knowledge about the notice, filed a reply stating that he is still unwell. However, such a reply by the petitioner, was not taken notice of, and the petitioner came to know even prior to the filing of the show cause that his dealership had been cancelled.

Learned counsel for the petitioner further submits that from a bare perusal of the sequence of events, it is evident that the action of the respondents is a clear violation of the principle of natural justice and prays that since no harm had been occasioned to any of the beneficiaries, (as under such circumstances, the beneficiaries from one shop were assigned to another PDS dealer) as such, there arose no justifiable reason as to why the petitioner's dealership has been cancelled in the present facts and circumstances of the case. It is submitted that for non-consideration of the petitioner's explanation also the impugned orders stands vitiated.

Be that as it may and in view of the fact that the State



has already filed its counter affidavit submitting that the PDS licensee was less interested in the matter and he had been duly issued show cause, which failed to evoke any response, this Court remands back the matter of the petitioner to the Licensing Authority to consider his show cause and pass appropriate orders in accordance with law.

It is made clear that the petitioner shall be permitted to raise all the objections as on date and the said show cause shall now be considered and disposed of in accordance with law within a period of six weeks from the date of receipt/production of a copy of this order.

In case the matter is decided in his favour, it goes without saying that the licence of the petitioner shall be restored and the food supply shall also be resumed.

With the aforesaid observation, the writ application stands disposed of.

(Anjana Mishra, J)

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