

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20684 of 2014

=====

Braj Kishore @ Braj Kishore Choudhary, son of Radha Krishna Choudhary,
resident of Village-Parasia, P.O.-Parasia, P.S.-Jagdishpur, District-Bhojpur, Arrah
..... Petitioner/s

Versus

1. The State of Bihar through the Collector of the District Bhojpur, Arrah
 2. The Sub Divisional Magistrate, Jagdishpur, P.O. & P.S.-Jagdishpur, District Bhojpur.
 3. The Block Supply Officer, Jagdishpur, P.O. & P.S.-Jagdishpur, District-Bhojpur
..... Respondent/s
- =====

Appearance :

For the Petitioner : Mr. Brij Mohan Kumar Singh, Advocate
For the Respondents : Mr. Deepak Kumar, A.C. to S.C.-5

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

Date: 04-05-2017

Heard learned counsel for the petitioner and the learned
counsel appearing on behalf of the State.

2. The petitioner seeks issuance of a writ in the nature
of *certiorari* for quashing the order dated 20.09.2014 passed by the
Sub-Divisional Magistrate, Jagdishpur, Bhojpur, communicated to
him through Memo No.1261 dated 20.09.2014 (Annexure 6),
cancelling his Licence No.18/2007, issued under the provisions of the
Public Distribution System Control Order, 2001, pursuant to the show
cause notice contained in Memo No.1198 dated 11.09.2014
(Annexure 2) issued to him. The petitioner further seeks a direction
from this Court to the Sub-Divisional Officer, Jagdishpur for directing
him to continue with the supply of food grains and other items



covered under the licence, vide Annexure 1, so that he can continue his livelihood.

3. Learned counsel for the petitioner submits that the petitioner, being a PDS dealer, was issued a show cause notice on 11.09.2014, vide Letter No.1198 (Annexure 2). The petitioner duly answered the said show cause on 15.09.2014, refuting all the charges made by the Block Supply Officer giving clearly the situation under which the PDS shop was running and stating clearly that he had always distributed all the items of the licence, including kerosene oil, in accordance with the rules and had not faced any such allegation till the said date.

4. However, close on the heels of the said show cause filed by the petitioner, another show cause notice was issued to the petitioner asking him to reply the same within 24 hours of the issue of the letter, vide Letter No.1235 dated 16.09.2014 issued from the office of the S.D.O., Jagdishpur. The petitioner once again answered the same stating therein that the notice board/display board had already been hung in front of the PDS shop and according to the sale register, all the items of sale covered by the licence and supplied to him, had been distributed to the consumers/beneficiaries concerned and there has been no complaint against him from any quarter and in support thereof, he has already submitted affidavits of certain



consumers, who were fully satisfied with his distribution system, which was evident from the joint petition filed along with the signatures of all the consumers who were attached to his shop.

5. The learned counsel for the petitioner has thus submitted that the allegation made against the petitioner by the Block Supply Officer was wholly misconceived and were not at all warranted and could not be sustained in view of the show cause filed by him. Learned counsel for the petitioner further submitted that though certain allegations had been levelled, copy of the same was never forwarded to him. He was thus faced with such vague allegation and even though he has substantially answered the allegations made in the show cause, the reasons assigned for rejecting the show cause are not based on the reasons offered by him but for other collateral reason. Such action having been taken for rejecting his show cause and cancelling his licence is wholly illegal, arbitrary and thus stands vitiated.

6. In support of the said contention, learned counsel for the petitioner has relied on a judgment of this Court in the case of **Krishna Kumar Srivastava vs. State of Bihar**, reported in **2013(3) PLJR 249**, wherein this Court in paragraph 1 has settled the issue and has stated as hereunder :

“This Court has repeatedly made it clear



that if a show cause notice is issued to a PDS dealer by the licensing authority on the basis of statement of consumers/beneficiaries attached to the shop in respect of non-supply or inadequate supply of food grains or charging higher amount than prescribed, names of such consumers/beneficiaries should be furnished to the dealer and, if any statement has been made on the basis of which any enquiry report has been submitted, copies of such statement and the report should also accompany the show cause. This basic requirement of fair play in action is only for compliance of principles of natural justice. If the show cause notice is vague and does not contain particulars in support of the allegations and is not accompanied with the relevant materials which may be considered by the licensing authority at the time of passing final orders, the same has to be termed as giving inadequate opportunity to the PDS licence holder. In the circumstances, even if the dealer files his reply, defect in the notice cannot be condoned and any order passed on such allegation made in such notice cannot be sustained in the eye of law.”

7. Having heard learned counsel for the petitioner and the learned counsel appearing on behalf of the State, who submits that the order passed is wholly legal and valid and the petitioner has the privilege of appeal before the Collector to assail the impugned order, this Court finds that the very notice having been issued in violation of



the principle of natural justice, inasmuch it was vague and the impugned order, which has been passed subsequent thereto, being without consideration of the show cause filed by the petitioner, the action of the authority cancelling the licence of the petitioner is bad in law and fit to be set aside.

8. Accordingly, the show cause notice contained in Memo No.1198 dated 11.09.2014 (Annexure 2) and the order which follows, i.e., Annexure 6 dated 20.09.2014, contained in Memo No.1261, are hereby set aside. The impugned orders having been set aside, as a natural consequence, the District Magistrate, Bhojpur shall issue appropriate direction to the Sub-Divisional Magistrate, Jagdishpur, Bhojpur to restore the licence of the petitioner and take steps for resuming the supply to his P.D.S. shop for running the business in terms of the licence issued in his favour.

9. With the aforementioned observations and directions, the writ application stands allowed. However, there shall be no order as to costs.

(Anjana Mishra, J)

PNM

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.05.2017
Transmission Date	N.A.

