

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2248 of 2015

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Rita Devi W/o Late Satendra Kumar Das Resident of Village - Bhaluan, P.S. - Masaurhi, District - Patna.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Civil Supply Department, Old Secretariat, Patna.
2. The District Magistrate, Patna.
3. The Sub Divisional Officer, Masaurhi, Patna.
4. The Block Supply Officer, Masaurhi, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Advocate
For the Respondents : Mr. A. Ujjwal

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 07-11-2017

The present writ petition has been filed for quashing the order dated 09.08.2011 issued vide memo no. 173/Aa dated 09.08.2011 by which the learned S.D.O., Masaurhi was pleased to cancel the licence of the petitioner being Licence No. 43/2007, granted under the provisions of the Fair Price Shop Order, 2007 for carrying on business under Public Distribution System and further for quashing the order dated 10.01.2014 passed in E.C. Appeal Case No. 47 of 2011-12 by the learned Collector, Patna by which he was pleased to reject the statutory appeal filed under Section 15 of the Control Order against the order dated 09.08.2011 of the learned S.D.O.

2. Learned counsel for the petitioner makes a short submission to assail the impugned order of cancellation on the ground that the show cause notice was vague and could not form the basis of the impugned order of cancellation. The show cause notice did not confront the petitioner with the consequence proposed in case of failure to respond to the same and merely stated that appropriate action would be taken against the petitioner. There was no whisper in the show cause notice that cancellation of the licence was



proposed. Moreover, the petitioner was unable to file reply to the show cause notice owing to illness of the original licence holder, who was then substituted by the petitioner in the appellate proceeding. It is therefore, submitted that the matter is thus not decided on merits.

3. Learned counsel for the respondents appears and has been heard. No counter affidavit has been filed on behalf of the respondents.

4. Having heard learned counsel for the parties, this Court is of the view that the petitioner deserves proper opportunity for filing the show cause reply. Submission on behalf of the petitioner that show cause reply could not be filed owing to illness is borne out from the appellate order, but no finding in this regard has been recorded.

5. In the above view of the matter, the impugned orders dated 09.08.2011 and 10.01.2014 are hereby set aside and the matter is remanded to the S.D.O. Masaurhi for passing orders afresh after grant of opportunity of hearing to the petitioner in accordance with law.

6. The writ petitions stands allowed as above.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
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