

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7521 of 2016

=====

Birju Kumar Son of Late Kamli Rajak resident of village- Khutia, P.S.
Mansi, District - Khagaria

.... Petitioner/s

Versus

1. The State of Bihar through Collector, Khagaria
2. The S.D.O., Khagaria
3. The B.S.O., Mansi, Khagaria

.... Respondent/s

=====

Appearance:

For the Petitioner/s : Mr. Vijay Anand

For the Respondent/s : Mr. Ritesh Kumar, SC-33

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

3 27-03-2017 Heard learned counsel for the parties.

Grievance has been raised by the petitioner that the respondent authority have cancelled the license without observing proper procedure rather passed the order without following the natural justice.

The order of cancellation is based upon the enquiry report which has not been served upon the petitioner, order has been passed against the petitioner having civil consequences. The petitioner is running a P.D.S. shop under valid license. An inspection was made by the team on 02.4.2016. It was submitted before the S.D.O. who has issued a show cause vide Memo No. 139 dated 02.4.2016 granting three weeks' time to file his reply.



The allegation has been made in the show cause that he has not kept the stock register properly and there was shortage of 60 liters of kerosene oil. The petitioner filed the show cause which was not found satisfactory leading to cancellation of the license. Petitioner has approached this Court making allegation that the licensing authority without observance of principles of natural justice has cancelled the license that too by passing a cryptic order.

In the counter affidavit there is no denial of the fact that the respondents without furnishing the enquiry report has taken decision and the plea has been taken that on the day of inspection petitioner was present.

This Court finds force in the argument of the petitioner that it was the bounden duty of the authority concerned to serve the same before taking any adverse decision against the petitioner.

In such view of the matter, the order of S.D.O. i.e. licensing authority vide Memo No.139 dated 02.4.2016 is set aside and the matter is remanded back to the S.D.O., Khagaria to serve a copy of the enquiry report and take decision in accordance with law.

The petitioner on receipt of enquiry report, if so like, is at liberty to file additional show cause before the S.D.O.,



Khagaria who will also obliged to take into consideration the same and would pass appropriate order within a period of four months from the date of receipt / production of a copy of this order.

With this observation and direction, this writ petition is disposed of.

(Shivaji Pandey, J)

S.Sb/-

U			
---	--	--	--

