

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3573 of 2017

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1. Hareram Ram, Son of Sri Lallu Ram, resident of Village- Rasauli, P.S. Piro,
District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Divisional Commissioner, Bhojpur Ara.
2. The District Magistrate, Bhojpur.
3. The Sub Divisional Officer, Piro, Bhojpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra,
Mr. Chandan Priyadarshi
Mr. Piyush Saurav

For the State : Mr. Upendra Pratap Singh, AC to SC 4

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 28-03-2017

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

In the present writ petition, petitioner is challenging the
order dated 6.1.2017 passed by the Sub Divisional Officer, Piro,
Bhojpur by which licence of the petitioner under Public
Distribution System has been cancelled.

A limited grievance has been raised by the petitioner that
in the show cause the Licensing Authority has not mentioned the
proposed punishment which violates the principle of natural
justice and as such the impugned order is not sustainable.

The petitioner is licence holder vide Licence No. 92 of



2007, later on was converted to Licence No.72 of 2016. An inspection was made by the Block Supply Officer, Piro, Bhojpur became basis for issuance of show cause vide memo no.282 dated 8.7.2016 as there was continuous complaint against the petitioner for his dereliction of duty. The Sub Divisional Officer, Piro, Bhojpur vide memo no. 827 dated 17.8.2016 directed for the inspection and enquiry by the Sub Divisional Grievance Officer-cum- High Level Officers of the Block Development Office , Piro, Bhojpur and it was found that petitioner was not running the shop in terms of the licence as well as in terms of the Control Order. Again petitioner was issued the show cause vide memo no. 647 dated 27.8.2016 which the petitioner has not replied. He was again given reminder vide memo no.1510 dated 9.11.2016 but still he did not submit his shows cause. Again on 23.11.2016 the District Supply Officer, Piro, Bhojpur has conducted an enquiry and submitted the report and he found that he was not running the shop properly and again show cause was issued vide memo no. 1694 dated 9.12.2016 but this time also petitioner did not submit any show cause nor he has produced the records. Again the villagers made a complaint on 21.12.2016 for committing irregularity in supply of essential articles and it was found the



petitioner has illegally closed the shop on 20.8.2016 and 23.11.2016 which violates the Control Order as well as direction of the Hon'ble Supreme Court and ultimately the Licensing Authority has passed the order.

Learned counsel for the petitioner submits that Clause 7(2) of the Control Order, 2007 postulates that no order of cancellation can be made under this Clause unless licensee is given reasonable opportunity against the proposed order of cancellation which leads that to conclusion that it is mandatorily required that Licensing Authority before passing the order of cancellation must disclose nature of punishment deviation of same is violative of provision of Clause 7(2) of the Control Order, 2007. He has placed reliance on the order dated 24.8.2016 passed by this Court in C.W.J.C. No.11229 of 2016 in which it has been decided that Sub Divisional Officer before passing any order of punishment must serve the copy of the enquiry report as non-service of the copy of the enquiry report violates the natural justice.

In such view of the matter, the order of the Licensing Authority dated 6.1.2017 is set aside and matter is remanded back to the Licensing Authority, Piro, Bhojpur to consider the case a fresh but that too after following the provision of law as



well as natural justice.

This Court is of the view that the Licensing Authority before taking decision should serve copy of the enquiry report which is the basis of the initiation of the proceeding and depriving of the same it causes prejudice to the petitioner.

Accordingly this writ petition is allowed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	4.4.2017
Transmission Date	NA

