

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18318 of 2015

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Osihar Prasad, S/o Late Dharichhan Prasad, Resident of Village - Chandbarwa,
P.S. - Mashrak, District - Saran.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Consumer Protection Department, Bihar, Patna.
2. The Commissioner, Saran Division, Chapra.
3. The Collector, Saran at Chapra.
4. The Sub-Divisional Officer, Marhaura, Saran.
5. The Block Supply Officer, Mushrak, Saran.

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Advocate

For the Respondents : Mr. Gyan Shankar, AC to GP6

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 16-11-2017

I.A. No. 8063 of 2017

The interlocutory application has been filed with the prayer for amendment of the prayer in the writ petition to the extent that "this writ petition is being also filed for setting aside the show cause notice dated 08.12.2010 (Annexure 1) passed by the learned SDO Marhaura, Saran because the same is not in accordance with law enumerated in clause 7 (ii) of the PDS Control Order 2001".

2. Having regard to the nature of the prayer, the interlocutory application is allowed and the same shall be treated to form part of the writ petition.



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3. Heard learned counsel for the petitioner and learned counsel for the respondents.

4. The present writ petition has been filed for quashing of the order contained in memo no. 185 dated 13.01.2011 passed by learned Sub-Divisional Officer, Marhaura, Saran whereby the licence of the petitioner's to run the public distribution shop being Licence no. 84/2001 has been cancelled and further for quashing the appellate order dated 19.12.2013 passed in Supply Appeal No. 13 of 2011 by the Collector, Saran at Chapra by which the appeal was dismissed; and further for quashing the revisional order dated 03.08.2015 passed in Supply Revision No. 77 of 2014 has been dismissed by learned Commissioner, Saran Division at Chapra

5. Learned counsel for the petitioner makes a short submission to assail the impugned orders on the ground that no show cause notice for proposed cancellation of the licence was given to the petitioner and he was never confronted with the same by granting an opportunity of being heard and adducing evidence in that regard.

6. A counter affidavit has been filed on behalf of the respondents in which however the aforesaid stand of the petitioner has not been controverted.

7. In the above view of the matter, this Court is satisfied



that non-supply of show cause notice for proposed cancellation of the licence has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 13.01.2011 (Annexure-2), appellate order dated 19.12.2013 (Annexure-3) and the revisional order dated 03.08.2015 (Annexure-4) are hereby quashed and the matter is remanded to the Sub-Divisional Officer, Marhaura, Saran for taking decision afresh in the matter after supplying a show cause notice for proposed cancellation of the licence and granting an opportunity of hearing in accordance with law. Supplies to the petitioner shall be restored without delay until fresh orders are passed.

8. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.11.2017
Transmission Date	N.A.

