

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13387 of 2017

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Kapildeo Yadav, Son of Late Sobhit Yadav, Resident of Village-Nayatola Mirjapur
(Nurpur), P.O.-Nath Nagar, P.S.-Madhusudanpur, District-Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Bhagalpur, District-Bhagalpur.
3. The Licensing Authority-Cum-Sub-Divisional Officer, Sadar, Bhagalpur, District-Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh

For the Respondent/s : Mr. S.RAZA AHMAD-AAG5

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

Date: 14-08-2018

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

Petitioner has challenged the cancellation of his Fair Price Shop being License No. 18/2016 which has been cancelled by the Licensing Authority, the respondent no. 3, the Sub-Divisional Officer, Begusarai vide order dated 09.08.2017 as contained in Annexure-1.

Learned counsel for the petitioner submits that the show cause notice dated 03.07.2017 as contained in Annexure-2 series only provided three days notice. However, a second show cause notice was



given providing three days to reply as the reply submitted in pursuance to the notice dated 03.07.2017 was not found satisfactory. He submits that in all five days notice has been given for filing his reply to the show cause.

However, learned counsel for the State submits that even the second show cause notice was replied by the petitioner and the inspection report of the Sub Divisional Officer and District Supply Officer, Begusarai, who had conducted an inspection on 24.06.2017 was also supplied with show cause notice dated 03.07.2017. There is provision of appeal under Section 32 of the Bihar Targeted Public Distribution System (Control) Order, 2016 and reply having found to be not satisfactory, the cancellation order has been issued.

Learned counsel for the petitioner further submits that no opportunity of hearing was given to the petitioner before passing the cancellation order dated 09.08.2017. The Bihar Targeted Public Distribution System (Control) Order, 2016 in Rule 27 (ii) postulates that the licensee has to be given sufficient opportunity to state his case against the proposal of cancellation of his license. The petitioner had replied to the said two show cause notices.

This writ application is disposed off with a liberty to the petitioner to avail alternative remedy of appeal as provided under the said Order, 2016 which is expected to be disposed off preferably



within a period of three months from the date of receipt/production of a copy of this order. The delay in preferring the appeal would be condoned, if the petitioner prefers an appeal by 29th August, 2018.

Writ application is disposed off, accordingly.

(Nilu Agrawal, J)

Devendra/Priyanka

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.08.2018
Transmission Date	NA

