

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17367 of 2017

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Gauri Shankar Sah, Son of Late Akloo Sah @ Muklal Sah, Resident of village -
Baswaria Tola, P.S. & District- Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies Dept. Bihar, Patna.
2. The Divisional Commissioner, Darbhanga.
3. The District Magistrate, Sitamarhi.
4. The District Supply Officer, Sitamarhi.
5. The Sub Divisional Officer, Sadar, Sitamarhi.
6. The Block Supply Officer, Dumra, Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner : Mr. Neeraj Kumar Gupta, Advocate

For the Respondents : Mr. S.Raza Ahmad -AAG5

Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 01-05-2018

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

2. The writ petition has been filed for the following reliefs:

“(a) For quashing the order as contained in order dated 15.04.2017 passed by the Respondent No. 5, learned S.D.O. , Sadar, Sitamarhi whereby and whereunder he has cancelled the licence of Fair Price Shop of the petitioner bearing License No. 24/2007, vide memo No. 04 dated 15.04.2017 on the basis of the report submitted by Executive Officer, Nagar Panchayat, Dumra who has found irregularity after inspection of the shop of the petitioner on 09.01.2017 and thus his shop has been attached to another dealer of the same Panchayat i.e. Mehsaul (West) who will be entitled for lifting and distributing the food grains.

(b) To direct the respondent No. 3, the District



Magistrate, Sitamarhi to dispose of the Supply Appeal No. 150/2017 filed by the petitioner which is pending before him since filing of the same.

(c) To direct the Respondent No. 5, the S.D.O. Sadar, Sitamarhi who is the licensing authority under the Bihar P.D.S. (Control) Order 2001 to restore the licence of the petitioner henceforth taking into consideration that the shop in question is the only means of his earning livelihood and that the license of the shop of the petitioner has been cancelled for no fault on his part.

(d) For any other relief/reliefs to which the petitioner is found entitled in the facts and circumstances of the case.”

3. Learned counsel for the petitioner makes a short submission to assail the impugned order of cancellation, to the effect that the same has been passed mechanically and without due application of mind and without assigning any reason for such cancellation.

4. Learned counsel for the respondents appears and has been heard. No counter affidavit has been filed till date.

5. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court finds merit in the writ petition. A bare perusal of the impugned order discloses that the petitioner's P.D.S. licence has been cancelled on the sole ground that the show cause reply filed by him was not satisfactory, without however assigning a single reason whatsoever as to why the



same was not found satisfactory. There is no discussion in the order with regard to the plea raised by the petitioner in his show cause reply and why the same did not find favour with the authority. In such circumstances, therefore, it must be held that the impugned order does not amount to a speaking order and is thus violative of the principles of natural justice which cannot be sustained in law.

6. Accordingly, the impugned order dated 15.04.2017 passed by learned S.D.O., Sadar, Sitamarhi (Respondent No. 5) is hereby quashed and the matter is remanded to him to consider and dispose of the matter afresh by a speaking order after grant of opportunity of hearing to the petitioner in accordance with law. Supplies to the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 5.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10.05.2018
Transmission Date	N.A.

