

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8387 of 2015

=====

Md. Mustaque Son of Late Halimuddin, Resident of Fariyani, P.S. - K. Nagar,
District - Purnea.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Civil Supply Department,
New Secretariat, Patna.
2. The Secretary, Food & Civil Supply Department, New Secretariat, Patna.
3. The District Magistrate, Purnea.
4. The Sub - Divisional Magistrate, Sadar, Purnea.
5. Additional Collector, Sadar Purnea.
6. District Supply Officer, Purnea.
7. Circle Officer-cum-Block Supply Officer, Srinagar, District - Purnea.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. N.K. Agrawal, Sr. Advocate
Mr. D.N. Tewari, Advocate

For the Respondents : AC to GP 9

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 16-07-2018

Heard learned senior counsel for the petitioner as well
as learned counsel for the respondents.

2. The present writ petition has been filed for quashing
the order contained in memo no. 1877 dated 31.12.2014 passed by
the Sub-Divisional Officer-cum-Licensing Officer, Sadar Purnea
whereby and whereunder the license bearing license no. 24/2007 to
run PDS shop has been cancelled.

3. Mr. N.K. Agrawal, learned senior counsel appearing



on behalf of the petitioner, submits that the show cause notice dated 28.11.2014 contemplated cancellation of licence in the event the petitioner did not file his show cause within time granted thereunder. In view of the notice being lost, a second show cause notice dated 18.12.2014 was issued once again stating that the failure to respond the same within the stipulated time would invite further action. It is submitted that neither show cause notice was one of the proposed cancellation in case the petitioner's reply was found unsatisfactory.

4. Learned counsel for the respondents has appeared.

5. Having heard learned counsel for the parties and on careful consideration of the materials available on record, it would appear that the plea of the petitioner that the first show cause notice dated 28.11.2014 was lost has not been disputed by the respondents and accordingly the second show cause notice dated 18.12.2014 has been issued. However, such show cause notice did not inform the petitioner about the proposed cancellation of licence if the petitioner's explanation was found unsatisfactory.

6. In this view of the matter, the impugned order of cancellation contained in Memo No. 1877 dated 31.12.2014 (Annexure-1) is hereby quashed and the matter is remanded to the Sub-Divisional Officer-cum-Licensing Officer, Sadar Purnea (respondent no. 4) to issue fresh show cause notice granting



sufficient time of being heard to the petitioner before passing a fresh order in accordance with law. Supplies to the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 4.

7. The writ petition accordingly stands disposed of.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	17.07.2018
Transmission Date	N.A.

