

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6418 of 2015

=====

Shiv Nath Prasad Son of Late Karu Sao, Resident of Village Bindhugali (Near Bageshwari Gumti), P.S. Delha, District Gaya

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food & Supply Department, Government of Bihar, Patna.
2. The Commissioner, Magadh Commissionary, Gaya
3. The District Magistrate, District Gaya
4. The Assistant District Supply Officer, Sadar, Gaya
5. The S.D.O., Sadar, Gaya.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Braj Nandan Kumar Tiwary, Advocate.

For the Respondents : Mr. Abbas Haidar, SC-16

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 07-08-2018

The present writ petition has been filed for setting aside all the orders dated 19.02.2015, 07.05.2012 and 07.05.2011 (contained in Annexures- 7, 5 and 4 respectively) passed by the respondent nos. 2, 3 and 5 respectively and further be pleased to reinstate the licence of the petitioner.

2. Petitioner was a Thela Vendor for kerosene oil distribution and holder of licence no. 17/86. The petitioner's licence was cancelled by the Sub-Divisional Officer, Sadar Gaya by order dated 07.05.2011 (Annexure-4) on the ground that the petitioner was not distributing the kerosene oil at the designated place at the time of



inspection, nor did he produce the Stock Register, Sale Register and Cash memo. The order was affirmed in appeal by the District Magistrate, Gaya in his order dated 07.05.2012 passed in Supply Appeal Case No. 136/11 (Annexure-5). A revision petition was dismissed by the Commissioner, Magadh Division, Gaya by order dated 19.02.2015 (Anexure-7) on the grounds of limitation.

3. Learned counsel for the petitioner submits that the petitioner had been ordered by the concerned authority for distribution of kerosene oil at two places namely, Sudhi Bigha and Baljori Bigha. At the time of inspection at Sudhi Bigha, the petitioner was distributing kerosene oil at the other designated place Baljori Bigha as evident from the certificate of the Ward Councilor dated 02.04.2011 which was duly annexed with the show cause filed by the petitioner (Annexure-3). It is stated that this aspect of the matter has not been considered at any stage by any of the authorities and to that extent the petitioner's license has been cancelled without due application of mind and without passing a reasoned order.

4. Learned counsel for the respondents appears and has been heard.

5. Having heard the parties and on a consideration of the materials on record, this Court finds substance in the submission of the petitioner. The petitioner's specific case is that he had been



ordered to distribute kerosene oil at two places. The stand that at the time of inspection he was distributing kerosene oil at Baljori Bigha which was duly supported by the certificate of the Ward Councilor, has not been considered by the authorities. To that extent therefore, no speaking order has been passed while cancelling the petitioner’s licence nor the issues considered by the higher authorities.

6. In the above view of the matter, the impugned order dated 07.05.2011 (Annexure-4), the appellate order dated 07.05.2012 (Annexure-5) and the revisional order dated 19.02.2015 (Annexure-7) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Sadar, Gaya (respondent no. 5) for passing orders afresh after considering the aforesaid stand of the petitioner in the show cause and after grant of opportunity of hearing to the petitioner in accordance with law. License of the petitioner shall be restored without delay.

7. The writ petition stands allowed.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.08.2018
Transmission Date	N.A.

