

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14752 of 2015

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Sahadat Hussain, son of late Md. Samin Uddin, Resident Village- Arkatta, Post-
Auria, P.S.- Barahat, District- Banka.

.... Petitioner/s

Versus

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

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Adv

For the Respondent/s : Mr. Ravi Verma AC to GP 9

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-08-2018

I.A. No. 5712 of 2018

This interlocutory application has been filed for substitution of the name and address of the petitioner, and the prayer contained in para 1B of the main writ petition.

2. It is submitted that the main writ petition was filed by the father of the intervener petitioner namely, Md. Samin Uddin and during the pendency of the writ petition he died on 06.12.2016.

3. Learned counsel for the respondents appears and has no objection to such prayer.

4. Having regard to the nature of the prayer, let the name of the petitioner, being the legal heir of the main writ petitioner, be substituted as Sahadat Hussain, son of late Samin Uddin, resident of village Arkatta, Post Auria, P.S. Barahat, District Banka in the cause title and make necessary amendment in the prayer in para 1.B of the main writ petition, as described in paragraph-3 of the interlocutory application. The interlocutory application stands disposed of.



5. Learned counsel for the petitioners is permitted to make necessary corrections in the main writ petition in course of the day.

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6. The main writ petition has been filed for quashing the order dated 06.07.2015 passed by the Sub Divisional Officer, Banka whereby and whereunder the petitioner's Fair Price Shop bearing No. 49/12 has been cancelled and monthly allotment has been stopped; and further to restore the petitioner's licence.

7. Learned counsel for the petitioner submits that during the pendency of the writ petition, the original licensee, Md. Samin Uddin, father of the petitioner, died and the present petitioner is the son of and legal heir of the erstwhile licensee. It is further submitted that the impugned order of cancellation has been passed without considering the show cause reply and giving an opportunity of hearing to the petitioner.

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

9. 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.

10. Accordingly, the impugned order dated 06.07.2015 (Annexure-1) passed by the Sub-Divisional Officer, Banka, District



Banka (respondent no. 2) is hereby quashed.

11. It may be observed that no fruitful purpose will be served in remanding the matter for fresh decision in view of the death of the original licensee as in any event the licence would not enure beyond the lifetime of the licensee.

12. In the above view of the matter, the writ petition is disposed of granting liberty to the petitioner, as prayed, to represent before the concerned authority for grant of PDS licence on compassionate basis.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
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