

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15489 of 2012

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Sanjeev Kumar Singh Son Of Late Surendra Singh Resident Of Village -
Gaziapur, Police Station - Krishnagarh (Barahara), District - Bhojpur (Ara)
..... Petitioner

Versus

1. The State of Bihar
2. The Commissioner, Patna Division at Patna
3. The Collector, Bhojpur At Ara, District - Bhojpur
4. The Sub-Divisional Magistrate, Sadar Ara, District - Bhojpur
5. The Additional District Supply Officer, Bhojpur at Ara

..... Respondents

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Appearance :

For the Petitioner : Mr. Makardhwaj Upadhyay
Mr. Rajeeva Roy, Advocates.

For the Respondents : Mr. P.K. Verma, AAG-5
Dr. Mankeshwar Tiwari, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-08-2018

The present writ petition has been filed for the
following reliefs-

“(I) Issuance of a writ in the nature of writ of certiorari quashing the order dated 19.05.2006 passed by the learned Sub-Divisional Magistrate, Ara (Annexure-3) whereby he has cancelled the licence no. 120/1991 of Public Distribution System of the petitioner.

(II) Issuance of a writ in the nature of certiorari quashing the order dated 29.06.2007 (Annexure-4) passed in Misc. No. 14/2006-2007 by learned Collector, Bhojpur, Ara by which he has affirmed the order dated 19.05.2006 passed by the Sub-Divisional Magistrate, Bhojpur at Ara Sadar (Annexur-3) whereby the learned Sub-Divisional Magistrate has cancelled the petitioner's licence bearing licence no. 120/1991 of Public Distribution System.



(III) Issuance of a writ in the nature of mandamus directing the respondents to revive the petitioner's licence no. 120/1991 of Public Distribution System and let him continue the shop of Public Distribution System without any hindrance and disturbance.

(IV) Issuance the any other appropriate writ(s), order(s) or direction(s) which may be deemed fit and proper in the facts and circumstances of the case."

2. 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.

3. Learned counsel for the respondents appears and states that his file is not available. An opportunity was granted by order dated 19.07.2018 but no counter affidavit was filed nor was the State represented when the matter was called again on 13.08.2018. No purpose therefore be served once again in adjourning the matter.

4. 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.

5. Accordingly, the impugned order dated 19.05.2006 (Annexure-3) passed by the Sub-Divisional Magistrate, Sadar Ara, District- Bhojpur (Respondent No. 4) and the appellate order dated 29.06.2007 (Annexure-4) passed by the learned Collector, Bhojpur, Ara are hereby quashed and the matter is remanded to the Sub-Divisional Magistrate, Sadar Ara 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. License of the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 4.

6. The writ petition stands allowed as above.

(Vikash Jain, J)

Md. Ibrarul/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28.08.2018
Transmission Date	N.A.

