

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6844 of 2017

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Vishundeo Ram, aged about 58 years, son of Late Tulsi Ram, resident of Village-
Gopinathpur Dokra, Police Station- Saraiya, Blcok- Saraiya, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The District Magistrate, Muzaffarpur.
4. The Sub Divisional Officer, Muzaffarpur (West).
5. The Block Supply Officer, Saraiya, Muzaffarpur (West).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha

For the Respondent/s : Mr. SANJAY KR.GIRI-GP9

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

Date: 31-07-2018

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

The petitioner challenges the order of cancellation of his
PDS licence no.23040071 of 2008 passed by the respondent no. 4,
Sub Divisional Officer, Muzaffarpur (West) vide order dated
26.05.2016 on the ground that no enquiry report was served to him
along with the show cause so that he could not have replied which
amounts to violation of principles of natural justice.



Learned counsel for the petitioner submits that his show cause has been dealt with in a mechanical manner without application of mind as he had filed a detailed show cause in reply to the irregularities found by the respondent no. 3 during his inspection of the PDS shop on 22.12.2015. Without taking into consideration the registers and documents filed by the petitioner before the Licensing Authority, the impugned order has been passed. Petitioner also contends that although notice has been issued under the provision of Public Distribution (Control) Order, 2001, but the impugned order has been passed under the Bihar Targeted Public Distribution System (Control) Order, 2016. He further submits that his appeal is pending before the District Magistrate, Muzaffarpur since 30.07.2016 and no action has been taken by the District Magistrate.

Learned counsel for the State, however, submits that during course of inspection, the Licensing authority having himself conducted an inspection, hence there was no enquiry report, all the irregularities found has been stated in the show cause and the reply being found not satisfactory, the impugned order cancelling the licence has been passed by the Licensing Authority. He submits that in view of Section 34 (ii) the Control Order, 2016 any action taken earlier would be deemed to be taken under the Control Order, 2016. Hence, the action



taken under 2001 Control Order will be deemed to be taken under 2016 Control Order. He further submits that the appeal is pending before the Collector hence, the writ application is not maintainable as there is alternative remedy available to the petitioner.

Considering the rival submissions of the parties, this writ application is being disposed off with a direction to the respondent no. 3 to dispose off the appeal pending before it as expeditiously as possible within a period of two months from the date of receipt/production of a copy of this order.

It goes without saying that the documents/orders would be looked into by the respondent no. 3 while deciding the appeal.

(Nilu Agrawal, J)

Devendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.08.2018
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