

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2579 of 2017

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Bunnilal Prasad Yadav, Son of Late Janki Ray, Resident of Village-Baanjari
(Hiramani) P.S.-Chhauradano, District-East Champaran at Motihari

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Food & Consumer Protection Department, Govt. of Bihar, Patna.
2. Collector-cum-District Magistrate, East Champaran at Motihari
3. The District Supply Officer, East Champaran at Motihari,
4. The Sub Divisional Officer, Raxaul, East Champaran at Motihari
5. The Block Development Officer, Chhauradano, East Champaran at Motihari.
6. The Block Supply Officer, Chhauradano, East Champaran at Motihari.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sangeet Deokuliar, Advocate

For the Respondents : Mr. Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 06-03-2018

Heard learned counsel for the petitioner and learned counsel
for the respondents.

2. The present writ petition has been filed for the following
reliefs –

“(A) For setting aside the order dated 18.11.2016 passed by the District Magistrate, East Champaran at Motihari in Case no. 26/2014 [Bunnilal Prasad Yadav Vs. The State of Bihar] by which the appeal was dismissed confirming the order of Sub Divisional Magistrate, Raxaul dated 06.09.2014 leading to the cancellation of the license with regard to Fair Distribution Shop of the petitioner in the following facts and circumstances of the case.

(B) For setting aside the order contained in Memo 343 dated 06.09.2014 passed by the Sub-Divisional Magistrate, Raxaul,



East Champaran at Motihari, by which the license with regard to Fair Distribution Shop of the petitioner has been cancelled without considering the facts and circumstances of the case.

(C) For grant of any other relief/s, if the petitioner is found entitled to."

3. Learned counsel for the petitioner makes a short submission to assail the impugned order on the ground that no show cause notice was received by the petitioner and he was not granted any opportunity of being heard or adducing evidence in that regard. A specific stand has been taken in paragraph 9 of the writ petition that the impugned order of cancellation of licence has been passed without serving any show cause notice upon the petitioner. Such infirmity could not be cured in the appeal as well.

4. Learned counsel for the respondents appears and has been heard. The stand of the petitioner with regard to non-service of show cause notice upon the petitioner has not been controverted, as no counter affidavit has been filed till date.

5. In the above view of the matter, this Court is satisfied that non-service of show cause notice upon the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The appellate order dated 18.11.2016 passed by the District Magistrate, East Champaran at Motihari in Case No. 26 of 2014 (Annexure-1) and the impugned order dated 06.09.2014 (Annexure-2)



are hereby quashed and the matter remanded to the Sub-Divisional Officer, Raxaul, East Champaran at Motihari for taking decision afresh in the matter after serving show cause notice upon the petitioner and granting an opportunity of hearing in accordance with law. Supplies to the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 4.

6. It is made clear that in case the stand of the petitioner denying service of show cause notice prior to order of cancellation being passed is found to be incorrect, the respondents shall be at liberty to approach this Court for recall of this judgment.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	08.03.2018
Transmission Date	N.A.

