

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5169 of 2015

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Nawal Kishore Rai aged about 52 Years Son of Late Brahmdeo Rai, resident of Village- Narainpur Mall, Police Station- Saraiya, District- Muzaffarpur.

.... Petitioner/s

Versus

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

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha, Adv

For the Respondent/s : Mr. SC11- ASHOK KUMAR

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-08-2018

The present writ petition has been filed for quashing of the order dated 26.10.2013 passed by the Sub Divisional Officer (West), Muzaffarpur as contained in memo no. 1008 by which the PDS licence No. 23040029/08 of the petitioner has been cancelled; and for connected reliefs.

2. Learned counsel for the petitioner submits that the petitioner replied to the show cause notice, which has been forwarded to the Block Supply Officer and it is in pursuance of the recommendation of the Block Supply Officer that the petitioner's PDS licence has been cancelled. It is therefore, submitted that the licencing authority has not applied his independent mind in the matter.

3. Learned counsel for the respondents appears and has been heard. It is submitted that the impugned order is appealable.

4. Having heard the parties and on consideration of the



materials on record, this Court finds merit in the writ petition. A bare perusal of the impugned order dated 26.10.2013 passed by the Sub Divisional Officer-cum-Licensing Authority discloses that the show cause of the petitioner has been rejected without due application of mind independently by the Sub Divisional Officer, and no reason whatsoever has been assigned for not accepting the show cause reply of the petitioner. It is therefore, clear that the order passed on the basis of recommendation of the Block Supply Officer cannot be sustained, more so, as no reason has been assigned for not accepting the show cause of the petitioner. The impugned order is a non-speaking order and violates the principles of natural justice for want of proper reasons.

5. Accordingly, the impugned order contained in Memo No. 1008 dated 26.10.2013 (Annexure-3) passed by the Sub-Divisional Officer (West), Muzaffarpur (Respondent No. 4) is hereby quashed and the matter is remanded to him 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. Licence 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)

Chandran/BT

AFR/NAFR	NAFR
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