

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2820 of 2018

=====

Arvind Kumar Gupta, son of Ganeshi Sah, resident of Village- Chandpura,
Panchayat- Ratan, P.S.+ Anchal- Gogri, District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food & Consumer Protection, Govt. of Bihar, Patna.
3. The Collector, Khagaria, District- Khagaria.
4. The Sub- Divisional Officer-Cum- Licensing Officer, Gogri, District- Khagaria.
5. The District Supply Officer, Khagaria, District Khagaria.
6. The Assistant District Supply Officer, Gogri, District- Khagaria.
7. The Block Supply Officer, Gogri, District- Khagaria.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Amrendra Kumar, Adv.
For the Respondent/s : Mr. S.Raza Ahmad –AAG-5
Md. Kamil Akthar, AC to AAG-5

=====

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.

Petitioner seeks quashing of the order contained in
Memo No. 2839 dated 23.12.2017 (Annexure-6) issued by the
respondent no. 4, Sub Divisional Officer, Gogri by which his PDS
licence being Licence No. 94G of 2007 has been cancelled.

The facts of the case is that on a complaint made by



the Ex Mukhiya, Mahendra Sah, the PDS shop of the petitioner was inspected on 21.11.2017 and certain irregularities were found. Accordingly, seven days notice for show cause was given to the petitioner who submitted his show cause. It appears that reply to the show cause was sent to the Assistant District Supply Officer, Gogri and Block Supply Officer, Gogri for opinion by the SDO, Gogri who found the show cause not satisfactory. Hence, the Licensing Authority found show cause not satisfactory and issued the cancellation order in mechanical fashion without due application of mind.

Learned counsel for the State is present.

From the impugned order, it appears that the Licensing Authority without application of mind only on the opinion of the Assistant District Supply Officer, Gogri and Block Supply Officer, Gogri has passed the order of cancellation. The matter is already covered by a decision of this Court in C.W.J.C. No. 4960 of 2018 dated 10.05.2018 that impugned order if not speaking cannot be sustained in the eye of law and is violative of principles of natural justice. Accordingly, the impugned order dated 23.12.2017 passed by the Sub Divisional Officer, Gogri is quashed. The matter is remanded to the Licensing Authority to consider the matter afresh by a speaking order after granting an opportunity to the petitioner in accordance with law and supplying the report of the Assistant District Supply Officer,



Gogri and Block Supply Officer, Gogri. Supplies to the petitioner would be restored forthwith until fresh orders are passed.

Writ application is allowed.

(Nilu Agrawal, J)

Devendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.08.2018
Transmission Date	NA

