

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19819 of 2018

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M/s Surajmal Mahadev Lal through Its Proprietor Raj Kumar Bajaj son of Late Sita Ram Bajaj, resident of Thana Road, PS Khagaria, District Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies and Commerce, Bihar, Patna.
2. the Principal Secretary, Department of Food and Consumer Protection, Bihar, Patna.
3. The Commissioner, Munger Division, Munger.
4. The District Magistrate, Khagaria.
5. The District Supply Officer, Khagaria.
6. The Sub Divisional Officer, Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Neeraj Kumar Gupta, Adv.

For the Respondent/s : Mr. S.RAZA AHMAD -AAG5

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 04-10-2018

The present writ petition has been filed for quashing of the order dated 23.01.2018 passed by the District Magistrate, Khagaria, whereby and whereunder, the wholesale licence of the petitioner pertaining to Kerosene Oil has been cancelled.

The short point raised by the learned counsel for the petitioner for assailing the impugned order dated 23.01.2018 is that since the show cause notice issued to the petitioner does not contain the proposed punishment regarding cancellation of the licence of the petitioner herein, the petitioner has been precluded from being granted opportunity to defend himself against the proposed punishment of cancellation of licence, which has in turn resulted in the impugned order dated 23.01.2018 being rendered perverse. Reference in this connection has been made to a judgment reported in 2015(3) PLJR 189 [Parsauni Khirodhar Primary Agriculture Co-Operative



Society Ltd. & Ors. vs. The State of Bihar through the Collector, Sitamarhi & Ors.] as also upon a judgment reported in *2015(1) PLJR 79 [Shanti Devi vs. The State of Bihar & Ors.]*.

Having heard the learned counsel for the petitioner and gone through the materials on record, this Court finds that the show cause notice issued to the petitioner does not disclose the punishment contemplated by the authorities, hence the action taken by the authorities is against the provisions contained in Bihar Trade Articles (Licences Unification) Order, 1984, since the same provides for grant of reasonable opportunity to the petitioner which, in the present case, has not been granted, hence the impugned order dated 23.01.2018 has been rendered otiose and is de hors the prevailing law.

For the reasons stated herein above, the writ petition is allowed and the impugned order dated 23.01.2018 is quashed, however, with liberty to the District Magistrate, Khagaria to proceed in the matter afresh in accordance with law.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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