

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3538 of 2019

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Rabindra Kumar Yadav, son of Damodar Prasad Yadav Resident of ward
No.09,Dhuriya,Rasulpur P.S. Chausa,Madhepura

... .. Petitioner/s

Versus

1. The State of Bihar and Ors through the Principal Secretary,Food and Civil
Supplies,Govt. of Bihar Main Secretariat,Patna
2. The District Magistrate Madhepura
3. The Sub divisional Officer Udakishunganj, Madheprara

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Mishra
For the Respondent/s : Mr.Arvind Ujjwal (Sc4)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 03-07-2019 Heard learned counsel for the petitioner and the State.

Petitioner, in the present case, is seeking a writ in the
nature of certiorari to quash and cancel the order as contained in
memo no.4006 dated 15.12.2018 issued under the signature of
the licensing authority by which the licence of the petitioner of
PDS shop has been cancelled.

Learned counsel for the petitioner has taken this Court
through the impugned order as contained in Annexure-2 to the
writ application to submit that the licensing authority has not at
all applied his judicious mind to the allegations and reply
submitted on behalf of the petitioner. The licensing authority has
though mentioned that the reply has been filed on behalf of the
petitioner contending that the allegations against him are wrong



and false, he came to a conclusion that the petitioner has not come forward with any evidence to negate the allegations made against him. It is contended that the petitioner had made specific statement in his reply that when the Block Supply Officer visited the premises of the petitioner, he was engaged in distribution of the food-grains, some of the beneficiaries had already been supplied and some of them were being supplied from the residence and no complaint whatsoever was made in his presence, it was incumbent upon the licensing authority to make available the inspection report and other materials to the petitioner so that he could have come out with a defence, but that was not done and the licence of the petitioner has been cancelled by simply recording that the petitioner could not produce any evidence to negate the allegations.

It is further submitted that while issuing show cause notice only three days time was granted to the petitioner to submit his explanation. It is not fair and an appropriate opportunity to the petitioner to submit his reply, therefore, the licensing authority could not have taken a view that the petitioner had not submitted his explanation within the given period.

Learned counsel for the State is present and submits



that, in the given facts and circumstances of the case, the matter may be considered by the S.D.O., Udakishunganj and a reasoned order shall be passed by him.

In the given facts and circumstances of the case, this Court is satisfied that the impugned order has been passed in haste without giving adequate opportunity of hearing to the petitioner. The impugned order simply says that the petitioner had not produced evidences to negate the allegations, however, it does not talk of the materials which are there in support of the allegations made against the petitioner. This Court is of the considered opinion that giving three days time to file explanation cannot be said to be an adequate opportunity to show cause. Hence, on all these grounds, the impugned order is liable to be set aside. It is set aside accordingly.

The S.D.O., Udakishunganj (respondent no.3) is free to proceed afresh from the stage of the service of show cause notice. The petitioner, if so advised, may file detail reply to the same with all materials in support of his plea and thereupon the licensing authority shall proceed to consider the same and pass an appropriate order in accordance with law within a period of three months from the date of receipt/production of a copy of this order.



In the meantime, the licence of the petitioner shall stand restored.

This writ application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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