

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4628 of 2019

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Ram Pukar Paswan Son of Nipali Paswan Resident of Village- Ajhaur, P.S.-
Nimachandpura, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar and Ors through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Commissioner, Munger Division Munger.
3. The District Magistrate-cum- Collector Begusarai.
4. The Sub- Divisional Officer, Begusarai District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajeev Kumar Labh
For the Respondent/s : Mr.U.P. Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 23-07-2019 Petitioner in the present case is aggrieved by and dissatisfied with the order dated 23.11.2018 passed by the Commissioner, Munger Division, Munger in Supply Revision No.85 of 2018 (Annexure-5) whereby he has refused to interfere with the appellate order dated 29.07.2017 refusing to interfere with the original order of the Sub-Divisional Officer, Begusarai as contained in memo no.494 dated 06.09.2014.

Learned counsel for the petitioner has drawn the attention of this Court towards Annexure-2 to the writ application which is said to be the show cause notice served upon the petitioner. Learned counsel submits that the said show cause was not in accordance with the Clause 7(IV) of the Public



Distribution System (Control) Order, 2001. He has relied upon an order dated 26.04.2019 passed by this Court in CWJC No.2407 of 2019 by which in a similar circumstance, relying upon the judgment of the Hon'ble Division Bench of this Court in the case of Ram Bachan Ram Vs. the State of Bihar & Ors. reported in 2018 (4) PLJR 516, this Court had been pleased to quash the impugned orders and remitted the matter to the Sub-Divisional Officer for a fresh consideration.

Learned counsel for the State is present and does not dispute the factual position as appearing from Annexure-2 to the writ application. Learned counsel submits that, in the given facts and circumstances, in the light of the judgment of this Court in CWJC No.2407 of 2019, the matter may be remitted to the Sub-Divisional Officer, Begusarai (respondent no.4) to pass a fresh order in accordance with law.

Having heard learned counsel for the petitioner and learned counsel representing the State, this Court finds force in the submission of the learned counsel for the petitioner. A perusal of Annexure-2 to the writ application would show that there was no proposal of cancellation of licence of the petitioner. The petitioner was only given three days time to submit his explanation and was called upon to produce the stock



register and cash-memos. The show cause notice did not contain any proposal that the authorities are considering or contemplating to cancel his licence. In the aforesaid view of the matter, the judgment of this Court in the case of Kishor Kumar (supra) shall equally apply to the petitioner.

In result, the impugned orders in terms of paragraph 1 of the writ application are hereby quashed. The matter is remitted to the Sub-Divisional Officer, Begusarai (respondent no.4) for issuance of a fresh show cause notice in accordance with law with all such materials on which the licensing authority would rely against the petitioner and after giving an appropriate opportunity to show cause to the petitioner the respondent no.4 shall pass a reasoned order thereon within a maximum period of 90 days from the date of receipt/production of a copy of this order.

This writ application stands disposed off accordingly.

Since during the intervening period the Bihar Targeted PDS (Control) Order, 2016 has come into force and the Court is not aware as to whether the vacancy of the petitioner has been filled up by any other suitable candidate, the Court is not passing any order with respect to restoration of the licence of the petitioner and restoration of supplies. However, it will be



open for the petitioner to submit an appropriate application before the Sub-Divisional Officer, Begusarai (respondent no.4) seeking restoration of the licence and supplies if the vacancy is still existing.

(Rajeev Ranjan Prasad, J)

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