

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 6871 of 2019

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Ajay Kumar, aged about 39 years, Male, Son of Shyam Nandan Rai, Resident of Village- Skari Saraiya, P.S. Kudhani, District- Muzaffarpur, Presently PACS President cum P.D.S. Dealer of Sakari Saraiya Panchayat P.S.- Kudhani, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Food and Civil Supply Department, Government of Bihar, Patna.
2. The Sub Divisional Magistrate, West Muzaffarpur.
3. The Block Supply Officer, Kudhani,

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shankar Kishore Shahi, Advocate
For the State	:	Mr. Alok Ranjan AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 30-05-2019

Heard learned counsel for the petitioner and learned AC to AAG-5 for the State.

2. The petitioner has moved the Court for the following reliefs:

“This this is an application for issuance of a writ in the nature of Certiorari for quashing the order vide memo no. 229 dated 2.3.2019 issued under the signature of respondent no. 2 whereby and whereunder the license of the petitioner has been cancelled only saying that the reply of show cause has not been submitted by the petitioner, while the petitioner has already replied the said show cause. And added that the enquiry report of the said impugned order has not been provided to this petitioner.

It is further prayed to direct the respondent no. 2 sub-Divisional Officer West Muzaffarpur to restore the P.D.S. license of the petitioner and to allot the monthly allotment.”



3. The grievance of the petitioner is that though a show cause notice has been served on him and pursuant to which he had also submitted his reply, in the impugned final order dated 02.03.2019, it has wrongly been stated that no show cause has been submitted and accordingly, his licence for PDS shop had been cancelled. Learned counsel submitted that the communication from the Licensing Authority dated 26.02.2019 admits that pursuant to the show cause dated 23.10.2018, the petitioner has submitted his reply on 26.10.2018. He further drew the attention of the Court to such reply in which it has been clearly stated that all the copies with regard to the registers were being enclosed along with the show cause. Learned counsel submitted that the order impugned stating that the petitioner had not submitted his show cause, thus, is clearly erroneous and in any view of the matter, the Licensing Authority not considering on merit the case of the petitioner, the order be set aside.

4. Learned counsel for the State was not in a position to counter the submissions of learned counsel for the petitioner, which are based on official documents, copies of which have been made annexure to the writ application.

5. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court



finds that the order impugned cannot be sustained. Once the authorities have acknowledged that a reply has been submitted by the petitioner pursuant to a show cause and the same in the impugned order completely being denied, the Court has no hesitation to hold that the order passed is totally without looking into the records, much less any application of mind. Thus, on the short point of the order being devoid of any consideration, as contemplated in law and also being contrary to the records, the same stands quashed.

6. The matter is remanded to the Licensing Authority (respondent no. 2) to decide the issue afresh, in accordance with law, after giving opportunity of hearing to the petitioner. The petitioner is direction to appear before the respondent no. 2 within three weeks from today along with a copy of this order when a date for hearing shall be fixed. The respondent no. 2 shall ensure that final orders are passed within two months from the date the petitioner appears before him.

(Ahsanuddin Amanullah, J.)

P. Kumar

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