

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23308 of 2019

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Ram Nath Paswan, S/o Late Ujaran Paswan, Resident of Village-Subadhiya
Noor Balara Ismile Panchayat Shahpur Maricha Ex-PDS Dealer Panchayat
Shahpur Maricha Anchal Kudhani, District Muzaffarpur.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shankar Kishore Shahi, Adv.

For the Respondent/s : Mr. Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 26-11-2019

Heard Mr. Shankar Kishore Shahi, learned
Advocate for the petitioner and Mr. Alok Ranjan, learned
Advocate for the State.

2. The petitioner has challenged the order
dated 11.09.2019, contained in Memo No. 1357, passed
by the Sub-Divisional Magistrate, Muzaffarpur (West),
whereby the licence of the petitioner under the Bihar



Targeted Public Distribution System (Control) Order, 2016 has been cancelled.

3. It has been submitted on behalf of the petitioner that he, as a licensee, had lifted the food-grains and kerosene oil on 25.07.2019 and always kept his shop open. Nonetheless, a show cause notice was served upon him on 03.08.2019, asking for his explanation as to why his shop was closed on 26.07.2016 and there was no display board. The occasion for giving such notice to the petitioner arose because of few of the customers tagged with the PDS shop of the petitioner, viz., Saryug Paswan, Lakhan Sah, Dasai Patty, Nand Lal Sah, Dulari Devi Ram Krit Sah and others had complained that more price was charged by the petitioner for the food-grains and that many a times, there were not even supplied the food-grains on demand.

4. The show-cause reply was filed by the petitioner intimating that the names of the consumers/complainants appear to have been taken only for the purposes of troubling the petitioner. It was



communicated that those customers had never made any complaint and that in fact, some of them were long dead or were not residing in the village.

5. Despite such explanation, the order cancelling the licence does not appear to reflect the aforesaid explanation and the same has been rejected on a mere finding that the register of sale bears, some different endorsement than what was stated in the defense of the petitioner. The order, it has been urged, is absolutely a non-speaking one and except for lip-service to the principle of giving hearing to the aggrieved party and taking a decision in a composite manner after taking into account the grounds raised, nothing specific has been stated in the order for it to be sustained in the eyes of law.

6. The precedents in this regard abounds in number. The importance of a speaking order cannot be denied as it gives an insight into the mind-set of the author of the order. In the absence of the grounds in the order for either rejecting or allowing the claim of a party,



it becomes very difficult to assay such an order or to understand the drift of the same. The order being non-speaking, in the opinion of this Court, cannot be sustained in the eyes of law.

7. While saying so, this Court has taken note of the factual statements made by the petitioner that some of the complainants who have been named in the show-cause notice are not even alive and some of them do not reside in the village. Some of the named customers/complainants have sworn affidavits that they were never asked for any opinion about the working of the licensee/petitioner.

8. Under the aforesaid circumstances, the order impugned dated 11.09.2019 is set-aside.

9. The matter is remitted to the Sub-Divisional Officer, Muzaffarpur (West) to write out a fresh order in accordance with law within a period of thirty days of the communication/receipt of this order.

10. However, it is made clear that in the meanwhile, there shall not be any allotment of any food-



grains to the petitioner in his capacity as PDS dealer.

11. The writ petition stands allowed and
disposed off accordingly.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.11.2019
Transmission Date	N/A

