

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7737 of 2020

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Santosh Kumar Ram Son of Late Ram Dev Ram, Resident of Village and P.O.-
Narauchh Dham, Ravidas Tol, Ratanpur Abhiman, P.s.- Jale, District-
Darbhanga, PIN-847813

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supply, Bihar, Patna
2. The Collector, Darbhanga
3. The Licensing Officer cum Sub Divisional Officer, Sadar, Darbhanga
4. The Block Supply Officer, Jalley, Darbhanga

... .. Respondent/s

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Appearance:

For the Petitioner/s : Mr. Kaushalesh Choudhary, Advocate
For the Respondent/s : Mr. Arvind Ujjwal, SC 4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 17-09-2020

This matter has been taken up for hearing through video conference. Learned counsel for the petitioner undertakes that all defects pointed out by the stamp reporter shall be removed, and compliance with the conditions of the notices of this Court with regard to acceptance of e-filing shall be made, without delay immediately upon resumption of physical functioning of the Court, and in any event within one month thereof. Learned counsel for the respondents states that they have no objection in this regard and the matter be taken up on merits in view of the stated urgency.

2. The following reliefs as formulated by the petitioner have been claimed in the writ petition --

“(i) For issuance of an appropriate writ(s)/Rule(s)/ direction(s) in the nature of mandamus commanding the concerned respondent, for quashing the order dated 20.06.2020 contained in memo no. 366 dated 22.06.2020, issued by Licensing Officer-cum-Sub



Divisional Officer, Sadar, Darbhanga, by which the Licence No. 33/16 of petitioner's public distribution system shop (PDS shop), situated under Gram Panchayat Raj Radhi (South), Jalley, Darbhanga, has been cancelled, without providing him a reasonable opportunity as required under Section 11(2) of the Bihar Trade Article (Licence Unification) Order 1984, Rule 7(iv) and 7(v) of the Bihar Control Orders, 2001 as well as Rule 27(2) of the Bihar Targeted Public Distribution System (Control) Order, 2016;

(ii) For restoration of petitioner's licence no. 33/2016 of his PDS shop, situated under Gram Panchayat Raj Radhi (South), Jalley, Darbhanga, with all facilities, available to the PDS shop;

(iii) For grant of all other reliefs to which the petitioner may found entitled under the relevant provisions."

3. Learned counsel for the petitioner submits that the impugned order dated 20.06.2020 contained in memo no. 366 dated 22.06.2020 (Annexure-P/1) cancelling his PDS licence has been passed without grant of reasonable opportunity in violation of Section 11(2) of the Bihar Trade Article (Licence Unification) Order 1984, Rule 7(iv) and 7(v) of the Bihar Control Orders, 2001 as well as Rule 27(2) of the Bihar Targeted Public Distribution System (Control) Order, 2016. It is submitted that such order has thus been passed without observing the principles of natural justice and cannot be sustained in view of numerous decisions of this Court, as also held recently in *CWJC No. 6093 of 2020 (Shambhu Nath Jha vs. The State of Bihar and others)*.

4. Learned counsel for the State opposes the petition, submitting that opportunity of hearing was duly provided to the petitioner in terms of show cause notice in memo no. 302 dated 06.06.2020 (Annexure-P/3) as also another show cause vide memo no. 303 dated 06.06.2020 (Annexure-P/4) to both of which the



petitioner has duly responded through his reply filed on 17.06.2020 (Annexure-P/5). It is therefore incorrect to say that reasonable opportunity was not provided to the petitioner. The petitioner was also served second show cause vide memo no. 338 dated 16.06.2020 (Annexure-P/6), to which also the petitioner filed his reply on 17.06.2020.

5. Having heard the parties and on consideration of the materials on record, this Court finds that the main ground raised by the petitioner is devoid of merit, considering that show causes were duly served upon him and to which he has filed his replies as stated above. However, this Court also takes note of the statements made in para 9 and 11 of the writ petition, *inter alia*, summarizing the grounds taken in show cause reply and submitting that such reply has not been considered while passing the impugned order. The petitioner's show cause reply dated 17.06.2020 (Annexure-P/5) is a detailed one in which specific pleas have been raised in respect of each allegation.

6. On the other hand, a perusal of the impugned order dated 20.06.2020 (Annexure-P/1) discloses that the petitioner's show cause reply has been rejected without specifically discussing the points raised therein. There is nothing in the impugned order to demonstrate that the concerned authority has applied its mind to the explanation of the petitioner in his show cause reply aforesaid, which has been rejected without assigning any reason whatsoever nor stating why such reply was not found satisfactory. In such circumstances, therefore, it must be held that the impugned order does not amount to a speaking order and is thus violative of the principles of natural justice which cannot be sustained in law.

7. Accordingly, the impugned order dated 20.06.2020 contained in memo no. 366 dated 22.06.2020 (Annexure-P/1) passed by the Licensing Officer cum Sub-Divisional Officer Sadar, Darbhanga. (Respondent No. 3) is hereby quashed and the matter is remanded to him to consider and dispose of the matter afresh by a speaking order after grant of opportunity of hearing to the petitioner in accordance



with law. Licence of the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 3.

8. It is also made clear that in view of the ongoing Covid-19 pandemic, any correspondence between the parties may be made through email and that the petitioner shall be at liberty to request the concerned authority for hearing through video conference. To enable the same, the petitioner shall furnish his mobile number and e-mail ID on the email address of learned Advocate General not later than by 22.09.2020 for onward transmission to the concerned authority.

9. The writ petition stands allowed as above.

10. Office shall follow-up to ensure that all defects are removed and compliance with the notices of this Court are made by the petitioner within the stipulated time provided in para 1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	18.09.2020
Transmission Date	-

