

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8724 of 2019

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Ramnath Singh, S/o Late Ganga Ram Singh Resident of Village- Bishun Tola,
Jalalpur, P.S. Muffasil, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection
Department, Government of Bihar, Patna.
2. The Collector, Saran at Chapra.
3. The Sub Divisional Officer Sadar, Chapra.
4. The Block Supply Officer, Sadar, Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari
For the Respondent/s : Mr. Arvind Ujjwal (Sc4)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 08-01-2020

Heard the learned counsel for the parties.

The petitioner has challenged the order dated
09.03.2019 passed by the Sub-Divisional Officer, Chapra,
Sadar contained in Memo No. 841, whereby the license of



the petitioner to run the Public Distribution Shop has been cancelled.

Two grounds have been urged on behalf of the petitioner, viz, that the cancellation order has been passed on a ground which was not listed in the notice issued to the petitioner. The other ground is that the explanation offered by the petitioner for closure of the shop for few days has not been considered in correct perspective.

It appears from the records that the petitioner was issued a show cause notice on the basis of an inspection made by the Block Supply Officer, Sadar on 11.04.2017 to which the petitioner replied. Another notice was issued to him on 28.06.2017 which was sequel to another inspection of the shop of the petitioner. Thereafter, a reply was furnished by the petitioner even though a very short time was given to him for filing such reply. The reply was not found to be satisfactory and the license of the petitioner was cancelled. Against the aforesaid cancellation order, the petitioner preferred an



appeal which could not be sustained and the order of cancellation was upheld. The petitioner thereafter challenged the cancellation order as well as the appellate order before this Court *vide* C.W.J.C. No. 22162 of 2018, which petition was disposed off on 20.12.2018 setting aside both the orders impugned on the sole ground that only three days' time was allowed to the petitioner to file reply to the show cause notice which in the estimation of the Court was absolutely insufficient and only displayed that a formality was complied with by the concerned authority. The matter was remanded to the Sub-Divisional Officer, Sadar for writing out a fresh order in accordance with law. Thereafter, the impugned order has been passed.

From the perusal of the order impugned, it appears that the ground of irregularities in distribution of kerosene oil has weighed with the authority along with other grounds for cancellation of license which was not the charge listed in the show cause notice.

This makes the order suspect in the eyes of law.



Apart from this, it has been urged that the explanation offered by the petitioner has not been adverted to in the correct perspective. It has also been argued that the enquiry report was not furnished for him to effectively reply to the aforesaid notice.

There appears to be substance in the submissions raised on behalf of the petitioner.

For the reasons aforesaid, the order impugned is set aside.

The matter is remanded to the Sub-Divisional Officer, Sadar, Chapra (Respondent No. 3) for writing a fresh order in accordance with law, within a period of six weeks from the date of production/receipt of a copy of this order.

Needless to state that before passing the order, the licensing authority / Sub-Divisional Officer shall make available the enquiry report to the petitioner and shall also afford opportunity of hearing to him.



With the aforesaid observation / direction, this
petition stands disposed off.

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	10.01.2020
Transmission Date	

