

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8657 of 2019

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Krishna Kumar @ Krishna Kr. Singh, aged about 50 years, Male, Son of Ram Lakhan Prasad, resident of village Bajitpur, Police Station Belaganj, District Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Magadh Division, Gaya.
2. The District Magistrate, Gaya.
3. The Sub-Divisional Officer, Gaya Sadar, Gaya.
4. The Block Supply Officer, Belaganj, Gaya.
5. The Marketing Officer, Belaganj, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner : Mr. Manish Kumar No.2, Advocate
For the Respondents : Mr. Upendra Pratap Singh, A.C. to S.C.4

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 09-10-2020 Heard Mr. Manish Kumar No.2, learned counsel appearing on behalf of the petitioner and Mr. Upendra Pratap Singh, learned A.C. to S.C.4 through video conferencing.

The petitioner moved this Court for quashing the order dated 15.11.2017, contained in Memo No.799/Go (Supp), passed by the Sub-divisional Officer, Gaya Sadar, Gaya whereby the licence of PDS shop of the petitioner has been cancelled. The petitioner assailed the order on the ground that from perusal of notice dated 17.06.2017 (Annexure-3), it would appear that the petitioner was called upon to file his show cause within three days from the date of issuance of notice. The



petitioner did not receive the notice within three days. However, the petitioner received the notice after one week from the date of its issuance and filed show cause. The notice was not attached with the enquiry report and the statement of the complainant but without hearing the petitioner and without perusing the show cause filed by the petitioner, the Sub-divisional Officer by order dated 15.11.2017 cancelled the licence of the petitioner. It is further submitted that the petitioner was not given sufficient opportunity to be heard. The Sub-divisional Officer did not even peruse the record about non-service of notice to the petitioner along with the enquiry report and the statements of the complainant, therefore, the order is vitiated and not sustainable.

Learned counsel for the State submits that the order is appealable.

Having considered the submissions of both sides, I find that the notice issued on 17.06.2017 shows that the petitioner was called upon to give show cause within three days. On the basis of the inspection made by the Circle Officer, Belaganj and Block Supply Officer, Wazirganj, FIR was lodged. The petitioner submits that he did not receive the notice within the stipulated period and when he received the notice, he filed



detailed show cause but the order does not reflect that the show cause of the petitioner has been considered. It appears that no sufficient opportunity was given to the petitioner nor it was ensured that the petitioner received the notice and, therefore, I find that without affording proper and sufficient opportunity, the Sub-Division Officer passed the order cancelling the licence of the petitioner, therefore, I find that the order is illegal and not sustainable.

Accordingly, the order dated 15.11.2017, contained in Memo No.799/Go (Supp), passed by the Sub-divisional Officer, Gaya Sadar, Gaya is quashed. The writ petition is allowed.

The matter is remitted to the Sub-divisional Officer, Gaya Sadar, Gaya to hear the petitioner afresh and pass order in accordance with law.

(Prabhat Kumar Jha, J)

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