

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 8299 of 2020

=====

Laxman Lal Dev Son of Ramvilash Lal Dev Resident of Village- Baligaon,
P.S.- Baheri, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate Darbhanga.
3. The Licensing Authority-Cum- Sub- Divisional Officer Sadar, Darbhanga, District- Darbhanga.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr Rajeev Kumar Labh, Advocate
For the Respondent/s : Mr Arvind Ujjwal

=====

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 16-10-2020

This matter was mentioned for listing on urgent basis,
which was allowed by Hon'ble JAD I and Hon'ble JAD II.

2 Accordingly, the same has been listed today for
consideration through Video Conferencing.

3 Heard learned counsel for the petitioner and the
respondents.

4 The petitioner has approached this Court being
aggrieved by the cancellation of his Public Distribution System
(for brevity, PDS) shop licence for distribution of essential
commodities. The impugned order is dated 13.03.2020, bearing



Memo No 106 issued by the Sub Divisional Officer, Sadar Darbhanga by which the petitioner's PDS shop licence No 5 of 2017 has been cancelled.

5 When the matter was last taken up on 14.10.2020, this Court found that the order was without assigning any reason whatsoever. It is in these circumstances that the learned counsel for the State sought time to seek instructions whether the only order visiting the petitioner with penal consequences was the impugned order dated 13.03.2020, or whether any other order had been passed wherein any reason has been assigned.

6 After obtaining instructions, the State Counsel submits today that the order dated 13.03.2020, impugned in the instant proceedings, is the only order cancelling the petitioner's PDS shop licence.

7 The Court, therefore, in the circumstances is left with no option but to quash the order dated 13.03.2020, bearing Memo No 106, issued by the Sub Divisional Officer, Sadar Darbhanga inasmuch as the same does not assign any reason whatsoever.

8 It is a trite law that an order having penal/civil consequence must be in accordance with the prescribed procedure and also must show due application of mind.



9 Prior to issuance of the impugned order, the petitioner had submitted his representation dated 07.12.2019 in response to the notice dated 19.11.2019. The impugned order of the Sub Divisional Officer does not show any consideration on the points/issues raised by the petitioner in his representation/response dated 07.12.2019.

10 Courts have repeatedly frowned upon such orders having civil/penal consequence without any consideration or without any reason whatsoever. In this connection, this Court would refer to a decision of the Apex Court in the case of *Kranti Associates Private Limited & Another -Versus- Masood Ahmad Khan & Others*, (2010) 9 Supreme Court Cases 496.

11 The order dated 13.03.2020 on this ground alone is violative of the principles of natural justice, arbitrary and unsustainable and is accordingly, quashed.

12 Learned State Counsel submits that the authorities may be left with the discretion to proceed against the petitioner in accordance with law after issuing a notice in respect of the proposed cancellation in terms of the Rule.

13 With liberty as aforesaid, the writ application stands allowed. As a result of quashing of the impugned order dated 13.03.2020, the petitioner shall be entitled to all consequential



benefits, till such time any fresh action is taken, in accordance with law.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.10.2020
Transmission Date	NA

