

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12444 of 2019

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Hari Prasad @ Hari Prasad Chaudhary, aged about 67 years (Male), S/o Bhagwan Chaudhary, Resident of Panchyat Musachak, Block- Bairgania, P.S.- Bairgania, Distt.- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Bihar, Patna
2. The District Magistrate Sitamarhi, Distt.- Sitamarhi
3. The District Supply Officer, Sitamarhi, Distt.- Sitamarhi
4. The Sub Divisional Officer cum Licensing Authority, Sitamarhi Sadar, Distt.- Sitamarhi
5. The Block Development Officer, Block-Bairgania, Distt.- Sitamarhi
6. The Block Supply Officer, Block- Bairgania, Distt.- Sitamarhi

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Chandra
For the Respondent/s : Mr. S. Raza Ahmad (Aag5)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 24-11-2020 Heard both sides through video conferencing.

The petitioner in this writ petition seeks quashing of the order as contained in Memo No.459, dated 16.03.2019 (Annexure-3) passed by the Sub-divisional Officer, Sitamarhi Sadar by which the PDS licence of the petitioner bearing Licence No.40/07 has been cancelled.

Mr. Anil Chandra, the learned counsel for the petitioner assailed the order impugned on the sole ground that show cause notice was served on the petitioner and the petitioner filed his show cause but no part of show cause is considered and the Sub-divisional Officer, Sitamarhi Sadar without taking into account the show cause filed by the petitioner cancelled the licence of the petitioner, therefore, the



order is non-speaking and it amounts to violation of principles of natural justice.

Mr. Alok Ranjan, the learned A.C. to A.A.G.5 very fairly submitted that if the grounds taken in the show cause has not been considered, it amounts to violation of principles of natural justice and the order cannot sustain.

Having considered the submissions and on perusal of the order impugned, I find that the Sub-divisional Officer has not considered the show cause of the petitioner and passed the order cancelling the licence of the petitioner, therefore, the order impugned is non-speaking and it amounts to violation of principles of natural justice. The order must state the reasons for rejecting the grounds taken in the show cause in absence of which the order is vitiated and not sustainable.

Accordingly, the order dated 16.03.2019, as contained in Memo No.459, passed by the Sub-divisional Officer, Sitamarhi Sadar is quashed. The matter is remitted to the Sub-divisional Officer, Sitamarhi Sadar to decide the matter afresh after hearing the parties by a reasoned order within four months from the date of receipt of this order.

The writ petition stands allowed accordingly.

(Prabhat Kumar Jha, J)

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