

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21321 of 2019

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Upendra Prasad Poddar S/o Sri Mishrilal Poddar Resident of Vill.- Semra,
P.S.- Piar, Distt.- Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Govt. of Bihar, Patna
2. The Collector, Muzaffarpur
3. The Sub Divisional Officer (East), Muzaffarpur
4. The Block Supply Officer, Bandara, Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjaya Nath Tiwari, Advocate
For the Respondent/s : Mr.Alok Ranjan, A.C. to A.A.G.5

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 09-12-2020 Heard Mr. Dhananjaya Nath Tiwari, learned counsel

for the petitioner and Mr. Alok Ranjan, learned A.C. to A.A.G.5

through video conferencing.

The petitioner is a P.D.S. shop dealer. The Block Supply Officer, Gaighat submitted a report that he made inspection on 28.08.2019 of the shop of the petitioner. The shop was found closed and, therefore, physical verification of the stock could not be done. During the course of inspection, it was found that petitioner violated different rules of Bihar Targeted Public Distribution System(Control) Order, 2016 and on the basis of such, a show cause was issued on 30.08.2019. The petitioner was asked to submit the stock register and distribution



register duly certified and cash memos. The petitioner submitted his show cause on 09.09.2019 along with the stock register, distribution register and cash memos. The Sub Divisional Officer, East Muzaffarpur by order dated 16.09.2019, as contained in Memo No.1316(Annexure-3), cancelled the license of the petitioner.

Learned counsel for the petitioner assails the order impugned primarily on the ground that petitioner submitted his show cause but on the two points, on which the show cause was asked, the license was cancelled. The license was cancelled on the ground that many irregularities were found in the distribution register submitted by the petitioner but no show cause was given to the petitioner to explain the irregularities, if any, found in the entry in the distribution register and thus, the order suffers from illegality as the Sub Divisional Officer cannot cancel the license of a licensee without asking show cause on the point of cancellation of the license.

Mr. Alok Ranjan, learned A.C. to A.A.G.5 submits that opening time of the P.D.S. shop is from 7 a.m. to 1 p.m. The inspection was made at 12.30 p.m. and the shop was closed. The petitioner explained that after 12.30 p.m., he had gone to lift kerosene oil from the supplier for distribution to the consumers



and that is why he closed the shop just before 12.30 p.m. It is further submitted that petitioner never committed fault in distribution of foodgrains and kerosene oil to the customers-card holders but at the same time, did not reply whether the Sub Divisional Officer asked any show cause on the ground on which the license of the petitioner has been cancelled.

From the order impugned(Annexure-3), it appears that Sub Divisional Officer, East Muzaffarpur, after having received the show cause of the petitioner submits that no cogent ground has been taken by the petitioner in his show cause refuting the irregularities found in the show cause but it appears that petitioner has clearly given his ground that he had gone to lift kerosene oil immediately before 12.30 p.m. and he has not violated any rules of Bihar Targeted Public Distribution System(Control) Order, 2016. The Sub Divisional Officer did not cancel the license of the petitioner on the ground of closure during the opening hours or did not refer any facts with regard to violation of control orders. The Sub Divisional Officer referred different entries made in the stock register and the entry register and found certain irregularities but no show cause on this point was asked and even then the license of the petitioner was cancelled.



I find that the Sub Divisional Officer cannot cancel the license of a P.D.S. shop dealer on the ground without asking any show cause or providing opportunity to the licensee to explain on the point or on the allegation of violation of any clause of the control orders. By doing this act, the Sub Divisional Officer has committed illegality and the order amounts to have been passed in violation of the principles of natural justice.

Having considered the facts, I find that order suffers from illegality and the same is not sustainable. Accordingly, the order dated 16.09.2019 as contained in Annexure 3 is set aside. The matter is remitted to the Sub Divisional Officer, East Muzaffarpur to decide the case afresh in accordance with law within four months from the date of receipt of this order.

This writ petition stands allowed accordingly.

(Prabhat Kumar Jha, J)

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