

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 5465 of 2021

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Dilip Kumar Mahto, Son of Shanichar Mahto, Resident of Village-Bajitpur Chhipaliya Milki, Police Station-Bahadurpur, Block-Bahadurpur, Dist.-Darbhanga, Pin. 846009.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. Additional Secretary, Food and Consumer Protection Department, Bihar, Patna.
3. The Collector, Darbhanga.
4. The Licensing Officer-cum-Sub-Divisional Officer, Sadar, Darbhanga.
5. The District Supply Officer, Darbhanga.
6. The Block Supply Officer, Bahadurpur, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kaushalesh Choudhary, Advocate
For the Respondent/s : Mr. Upendra Pratap Singh (AC to SC 4)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2 17-09-2021 The instant case has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

The present petition has been filed for quashing the order dated 05.01.2021, passed by the Sub Divisional Officer, Sadar, Darbhanga, whereby and whereunder the licence of the petitioner bearing License no. 39 of 2018 has been cancelled.

The short point raised by the learned counsel for the petitioner is that the Sub Divisional Officer, Sadar, Darbhanga



has not applied his independent mind, resulting in the order dated 05.01.2021 being vitiated in the eyes of law.

The Ld. counsel for the State Sri Upendra P. Singh, AC to SC 4 does not dispute the position, as is existing in law.

Having regard to the facts and circumstances of the case, this Court finds that admittedly, the S.D.O., Sadar, Darbhanga has not applied his independent mind and has instead, relied upon the recommendation of the Assistant Supply Officer, Sadar, Darbhanga, copy whereof was never supplied to the petitioner, thus admittedly, there has been a violation of the Principles of Natural Justice, therefore the findings recorded on the basis of such report stands vitiated, hence the impugned order dated 05.01.2021, passed by the Sub Divisional Officer, Sadar, Darbhanga is not sustainable in the eyes of law, consequently, the same is quashed. However, the matter is remanded back to the Sub Divisional Officer, Sadar, Darbhanga to proceed afresh, in accordance with law.

The present writ petition stands allowed.

(Mohit Kumar Shah, J)

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