

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7561 of 2020

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Phool Babu Mishra Son of Ram Aavtar Mishra, Resident of Ward No. 07,
Thalwara, P.S. Hayaghat, District-Darbhangha, Pin-846002.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Food and Civil Supply, Bihar, Patna.
2. The Collector, Darbhanga.
3. The Licensing Officer-cum-Sub-Divisional Officer, Sadar, Darbhanga.
4. The Additional Sub-Divisional Officer, Biraul, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kaushalesh Choudhary
For the Respondent/s : Mr.Prashant Pratap (GP 2)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 06-04-2021 The matter has been taken up for hearing online because of COVID-19 pandemic restrictions.

The petitioner in the present writ application has put to challenge an order dated 05.05.2020 passed by the Licensing Officer-cum-Sub Divisional Officer Sadar, Darbhanga whereby License No. 4/16 of the petitioner for running a Public Distribution System Shop (PDS Shop) under Gram Panchayat Raj Thalwara in the district of Darbhanga has been cancelled.

Though the petitioner has remedy of appeal under the Bihar Trade Articles (Licenses Unification) Order, 1984, he has chosen to challenge the said order by filing present writ application.



Learned counsel for the petitioner has submitted that availability of alternative remedy of appeal is no bar for this Court to entertain this writ application in view of the fact that there is clear violation of principles of natural justice inasmuch as the petitioner's response to the show-cause notice issued by the licensing authority for cancellation of license has not been considered in the impugned order. He has argued that the impugned order does not reflect any application of mind as to why the grounds taken by the petitioner in his reply to the show cause notice was not acceptable to the licensing authority.

On perusal of the impugned order, I find substance in submission made on behalf of the petitioner that the order does not reflect any application of mind as to why the grounds taken by the petitioner in his reply to the show cause notice were not acceptable to the licensing authority, while passing the impugned order. The impugned order is accordingly set aside.

This application is allowed.

The matter is remanded back to the licensing authority to pass a reasoned and speaking order afresh after considering the petitioner's reply to the show cause notice, within a period of three months from the date of receipt/production of a copy of this order.



If the order of the licensing authority passed in the light of the present order is found to be adverse to the interest of the petitioner, he shall be at liberty to prefer an appeal before the appellate authority.

(Chakradhari Sharan Singh, J)

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