

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 10295 of 2021

Md. Irshad son of Jaibul Abdin resident of village Sahuka, P.S. - Ramgarh,
District- Kaimur (Bhabhua).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar at Patna.
2. District Magistrate, Kaimur, District- Kaimur.
3. The Sub-Divisional Officer Cum Licensing Authority, Mohania, P.S. Mohania, District- Kaimur.
4. Marketing Officer, Mohania, District- Kaimur.
5. The District Supply Officer, Mohania, District- Kaimur.

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2 23-09-2021 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 writ petition has been filed for quashing the order dated 26.03.2021, passed by the Sub-Divisional Officer-cum-Licensing Authority, Mohania, Kaimur, whereby and whereunder the P.D.S. license of the petitioner bearing License no. 48 of 2016 has been cancelled.



The learned counsel for the petitioner has submitted that the impugned order dated 26.03.2021 has been passed relying on an inquiry conducted by the joint inspection team on 12.02.2021. It is further submitted that the S.D.O. Mohania, Kaimur has arrived at a decision to cancel the license of the petitioner on the basis of certain allegations levelled in the said inquiry report dated 12.02.2021, however a bare perusal of the show cause notices dated 17.02.2021 and 05.03.2021 would show that a copy of the said inquiry report was not furnished to the petitioner, thus it is submitted that the petitioner has been precluded from submitting his wholesome defense with regard to the allegations levelled against him, some of which came to the notice of the petitioner only after perusal of the impugned order of cancellation of license dated 26.03.2021, hence the Principles of Natural Justice have been violated, consequently, the impugned order dated 26.03.2021 stands vitiated in the eyes of law.

The learned counsel for the respondent-State Sri Upendra Pratap Singh (AC to SC 4) has not disputed the position, as is existing in law.

Having regard to the facts and circumstances of the case, considering the arguments advanced by the Ld. Counsel



for the parties and taking into account the fact that for the first time, in the impugned order dated 26.03.2021, the Licensing authority has whispered about the inquiry conducted on 12.02.2021, copy whereof was never furnished to the petitioner, nonetheless, certain new allegations have been levelled against the petitioner, on the basis of which the license of the petitioner has been cancelled, this Court finds that the petitioner has not been given reasonable opportunity to put forth his wholesome defense with regard to the allegations levelled against him, thus, the Principles of Natural Justice have been violated, hence the impugned order dated 26.03.2021, passed by the Sub-Divisional Officer Cum Licensing Authority, Mohania stands vitiated in the eyes of law, thus is quashed, however, the matter is remanded back to the S.D.O. Mohania to proceed afresh, in accordance with law.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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