

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8837 of 2020

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Vinod Paswan Son of Lakshmi Paswan Resident of Village- Arai, P.S.- Simri,
District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Darbhanga, District- Darbhanga.
3. The Licensing Authority-cum-Sub-Divisional Officer, Sadar, Darbhanga, District- Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajeev Kumar Labh, Advocate
For the Respondent/s	:	Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 08-04-2021

Heard learned counsel for the petitioner and learned counsel for the State through video conference. Learned counsel for the petitioner undertakes that all defects pointed out by the Stamp Reporter shall be removed, and compliance with the conditions of the notices of this Court with regard to acceptance of e-filing shall be made, without delay immediately upon resumption of normal physical functioning of the Court, and in any event within one month thereof.

2. The present writ petition has been filed for quashing the order contained in Memo No. 221 dated 25.04.2020 passed by Licensing Authority-cum-Sub-Divisional Officer, Sadar, Darbhanga, by which the Fair Price Shop Licence of the petitioner



bearing No. 45 of 2016 has been cancelled; and for a direction to the respondents to restore the PDS licence of the petitioner with immediate effect.

3. Learned counsel for the petitioner makes a short submission to assail the order of cancellation, to the effect that the show cause reply filed by the petitioner was not properly considered. It is further submitted that the licensing authority has granted only 24 hours for replying the show cause notice, which is unreasonable and insufficient opportunity violative of Natural Justice.

4. Learned counsel for the respondents appears and has been heard.

5. Having heard the parties and on a careful consideration of the materials on record, this Court finds merit in the writ petition. The respondents have not controverted the fact that the petitioner had filed the reply to the show cause before the Licensing Authority-cum-Sub-Divisional Officer, Sadar, Darbhanga. A perusal of the impugned order of cancellation contained in Memo No. 221 dated 25.04.2020 (Annexure-1) discloses that the show cause reply of the petitioner has not been accepted, merely stating that the same was not found satisfactory without however assigning any reasons in this regard. Moreover, grant of only 24 hours to reply to the show cause notice dated 16.04.2020 (Annexure-2) cannot be said to fulfil the requirement



of Natural Justice and hence the decision making process stands vitiated.

6. The impugned order dated 25.04.2020 (Annexure-1) hereby is quashed and the matter is remanded to the Sub-Divisional Officer, for fresh decision after consideration of the petitioner's show cause reply and after grant of reasonable opportunity of hearing to the petitioner in accordance with law. Supplies to the petitioner shall be restored without delay until fresh orders are passed.

7. The writ petition stands allowed.

8. Office shall follow-up to ensure that all defects are removed and compliance with the notices of this Court are made by the petitioner within the stipulated time provided in para 1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	09.04.2021
Transmission Date	-

