

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11922 of 2021

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Ravindra Kumar Ravi Son of Mahavir Paswan, Resident of Village-Pakariya,
P.S.-Jamalpur, 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.
3. The Licensing Authority-cum-Sub-Divisional Officer, Biraul, 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 MOHIT KUMAR SHAH
ORAL ORDER

2 28-09-2021 Heard the learned counsel for the petitioner and Sri
Alok Ranjan, learned AC to AAG 5 appearing for the State.

The present writ petition has been filed seeking quashing of the order dated 25.05.2021, whereby and whereunder the P.D.S. shop of the petitioner bearing License no. 11 of 2016 has been cancelled.

The short point raised by the learned counsel for the petitioner to assail the impugned order dated 25.05.2021 is that prior to passing of the said order, the District Magistrate, Darbhanga vide his letter dated 18.05.2021 had directed the Sub Divisional Officer, Biraul to initiate proceedings for the purposes of cancellation of license of the petitioner. It is thus



submitted that consequent thereupon, the S.D.O. Biraul has cancelled the license of the petitioner by the impugned order dated 25.05.2021, which shows that the Licensing Authority-cum-Sub Divisional Officer, Biraul has not applied his independent mind and has merely followed the dictates of his superior officer, which is contrary to the provisions contained in ***Bihar Targeted Public Distribution System (Control) Order, 2016***. It is also submitted that since the impugned order dated 25.05.2021 has been passed upon the dictates of the District Magistrate, Darbhanga, the same is not sustainable in the eyes of law, inasmuch as the Licensing Authority has acted upon the directions of the superior authority and has not taken an independent decision in the matter, thus an element of bias is apparent from the records.

Per contra, the learned counsel for the respondent State has not disputed the position, as is existing in law.

Having regard to the facts and circumstances of the case and considering the fact that the impugned order dated 25.05.2021 has been passed by the Licensing Authority-cum-Sub Divisional Officer, Biraul on the dictates of the District Magistrate, Darbhanga, as contained in his letter dated 18.05.2021, this Court finds that the impugned order dated



25.05.2021 is not free from bias and the Licensing Authority has failed to exercise his independent mind, resulting in the impugned order dated 25.05.2021 being vitiated in the eyes of law, thus is quashed, however the matter is remanded back to the Licensing Authority-cum-Sub Divisional Officer, Biraul to proceed afresh, in accordance with law.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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