

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 7523 of 2020

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Veer Bahadur Rai Son of Kamla Kant Rai, Resident of Village-Kolhrampur,
P.S.-Barhara, District-Bhojpur at Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Ara.
2. The Sub-Divisional Officer, Sadar Ara, District-Bhojpur at Ara.
3. The Block Supply Officer cum Additional Sub-Divisional Officer,
Jagdishpur, District-Bhojpur at Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr N K Agrawal, Sr Advocate Mr Manoj Kumar Pandey, Advocate
For the Respondent/s	:	Mr Rewti Kant Raman, AC to SC XI

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 11-02-2021

Heard learned senior counsel for the petitioner and the respondents.

2 The petitioner has approached this Court assailing the order dated 04.06.2020 passed by the Sub-Divisional Officer, Sadar, Ara cancelling his Public Distribution System (for brevity, *PDS*) License No 103 of 2018 on grounds of some alleged irregularities.

3 Undisputed facts are that a show cause notice was issued to the petitioner on 23.05.2020. Another notice dated 01.06.2020 has also been issued to the petitioner. The cancellation of the license is under order dated 04.06.2020.

4 Learned Senior Counsel for the petitioner submits that the first show cause notice dated 23.05.2020 was served on him on 02.06.2020. The time granted for responding to the said



notice had lapsed long before it was served on the petitioner as the same only allowed two days' time to respond. It is further submitted that the impugned order dated 04.06.2020 was issued cancelling the PDS license of the petitioner, though the show cause only proposed suspension.

5 The learned State Counsel submits that the plea of lack of opportunity on account of a very delayed service of the show cause notice or insufficient time to respond is untenable. The petitioner was served notice twice, the second being on 01.06.2020.

6 Whether the Authorities are proposing to suspend or cancel the license, this Court would only observe that there is requirement to comply with the procedure of Clause 26 of the Targeted Control Order, 2016 which contemplates asking a show cause on the report of an Inspecting Officer. In this case also, action has been taken based on an inspection report.

7 Clause 27 of the Targeted Control Order, 2016, dealing with cancellation of license also contemplates "sufficient opportunity" to the licensee to state his case. Even if a licensee is made an accused in a criminal case and an FIR is lodged against him, Clause 28 of the Targeted Control Order, 2016 contemplates taking lawful action against a licensee "after serving a show cause notice" and "giving him sufficient opportunity to present his case". The scheme of the Targeted Control Order, 2016 explicitly mandates an opportunity to the licensee to present his case/being heard. For realization of such opportunity, it is essential that the licensee comes to know about the allegations, which is possible only if the show cause/allegations are served upon the licensee.

8 This Court would take notice of the stand of the petitioner in the writ petition that notice dated 01.06.2020 was



never served on the petitioner. The law is well settled. Mere issuance of a show cause notice would not subserve the principles of natural justice. The noticee can only realize the opportunity sought to be offered by a notice, if it is actually served. The service is not supported by any material and there is nothing on record to conclude that notice dated 01.06.2020 was ever served on the petitioner. In so far as the earlier notice dated 23.05.2020, this Court has already taken note of the fact that it was served much beyond the time fixed for its response. The notice provided two days opportunity, however, it was served on him on 02.06.2020. The same, therefore, also does not afford any opportunity to the petitioner.

9 That apart, another infirmity is that the impugned order proceeds to cancel the PDS license whereas the show cause notice was only proposing suspension. This Court would confine itself to the decision making process and not the decision itself.

10 From the aforesaid facts, it is apparent that the petitioner was not afforded opportunity to respond to the notice. The order dated 04.06.2020 cancelling the petitioner's PDS license is in violation of the Targeted Control Order, 2016, as also in violation of the principles of natural justice. On this ground alone, the same is fit to be quashed.

11 The petitioner would be at liberty to respond to the show cause notice dated 23.05.2020 within three weeks from today.

12 In the event, such a reply to show cause notice is filed, the Authority should proceed in accordance with law after due consideration of show cause and dispose it of within four weeks thereafter.

13 Writ petition is allowed.



14 The petitioner’s consequential benefit shall abide the decision of the Authority on his response within the aforesaid time frame.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	19.02.2021
Transmission Date	NA

