

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8159 of 2020

Shiv Shankar Singh @ Shankar Singh Son of Ramvriksh Singh, resident of
Village - Tarari, Police Station - Konch, District - Gaya.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department, Government of Bihar, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The Distirct Magistrate, Gaya.
4. The Licensing Officer -cum-Sub Divisional Officer, Tekari, Gaya.
5. The Block Supply Officer, Konch, Gaya.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Manish Kumar 2, Advocate Mr. Gajendra Kumar Singh, Advocate
For the Respondents	:	Mr. Prashant Pratap, G.P.-2

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 07-04-2021

The petitioner has put to challenge an order dated 27.07.2020 passed by the Licensing Authority-cum-Sub Divisional Officer, Tekari, Gaya, whereby his license for running a Fair Price Shop vide No.68/2018, under the provisions of Bihar Targeted Public Distribution System (Control) Order, 2016, has been cancelled in exercise of power under Clause 27 of the said Control Order, 2016. The petitioner was granted the said licence for village Tarari, Gram Panchayat Raj Adai in the district of Gaya.

2. It transpires that on the basis of certain complaints received by the licensing authority, he had directed for an enquiry



by the Sub Divisional Officer and Block Supply Officer. During the course of enquiry, the beneficiaries were interrogated, who disclosed that the petitioner was not supplying the food grains regularly and many of them had not received the food grain for the month of June, 2020. They also alleged that the petitioner had charged more amount for supply of kerosene oil and other articles than fixed. The enquiring team accordingly submitted its report.

3. Be it noted that the allegations of irregularities and corrupt practices against the petitioner had surfaced in the midst of COVID-19 Pandemic.

4. The petitioner was put to show cause notice on 10.07.2020 along with which the said enquiry report was enclosed and the petitioner was directed to submit his reply to the show cause within three days. It is the case of the petitioner that allegations made against him were vague and that the notice dated 10.07.2020 was received by him on 16.07.2020, in response to which he had submitted his reply on 18.07.2020, denying the allegations.

5. A counter affidavit has been filed on behalf of the respondents, wherein it has been asserted that the licensing authority, after having found violation of terms 5, 6, 8, 9 and 12 of the agreement of Public Distribution System Licence, which are in



consonance with the provisions of National Food Security Act, 2013 (hereinafter referred to as 'the Act', rightly cancelled the petitioner's licence for running Fair Price Shop.

6. Mr. Manish Kumar No.2, learned counsel appearing on behalf of the petitioner has argued that granting only three days time to file reply to the show cause notice cannot be said to be allowing sufficient opportunity of hearing. The petitioner was thus denied his right of hearing before the impugned order was passed and for the said reason, the impugned action requires interference. He has further argued that there has been no violation by the petitioner of any terms of licence nor any provision under the Control Order or the Act, which could have validly attracted the power of cancellation of licence.

7. In response to a query put by this Court as to why the petitioner chose not to prefer appeal against the impugned order, Mr. Manish Kumar No.2. has submitted that since the impugned order is in violation of the principles of natural justice, availability of alternative statutory remedy, is no bar for the petitioner to invoke extraordinary writ jurisdiction of this Court.

8. Since the pleadings in this case are complete and the case has been heard on merits with the consent of parties, it is being disposed of by the present order.



9. At the outset, in all fairness to learned counsel for the petitioner, I must address his first contention that the petitioner was not given adequate opportunity of hearing and three-days time allowed to him to submit his reply to the show cause notice was not adequate. I have perused the reply, which the petitioner had filed in response to the notice dated 10.07.2020 on 18.07.2020. The said show cause reply runs in 52 pages and contains various enclosures. He had dealt in his reply, point-wise, the show cause notice, which was issued to him, as is evident from Annexure-3 to the writ application. In his reply, he did not take a plea that the time available to him for replying the show cause notice was not adequate and he required more time to respond to the said notice. Neither any prejudice has been pleaded nor shown by the petitioner in this regard. In my view, therefore, the impugned order does not require any interference on the ground that the petitioner did not have the adequate opportunity to submit his effective reply.

10. Further, from the impugned order, which is at Annexure-24, it appears that the licensing authority has taken into account in detail the irregularities noticed by the enquiring team. He has thereafter meticulously mentioned the points taken by the petitioner in his reply to the show cause notice. It can be seen from the impugned order that the licensing authority has noted the



specific plea of the petitioner, that for the month of June, 2020, the persons, who had complained before the licensing authority, had been tagged to another Fair Price Shop, to controvert the allegation of non-supply of materials to them for the month of June, 2020. This stand of the petitioner has been found to be incorrect by the said authority with the recording of finding. The licensing authority has concluded in his detailed, speaking and reasoned order the manner in which the petitioner breached the terms of licence and thereby provisions under the Act and the Control Order, 2016.

11. The impugned order, in my opinion, cannot be said to be suffering from perversity as the findings recorded by the licensing authority are based on materials referred to therein. The order is speaking, reasoned, admittedly within jurisdiction and satisfies the requirement of principles of natural justice. The licensing authority has considered in detail the points taken by the petitioner in his reply to the show cause notice. In such view of the matter, in my opinion, the impugned order does not suffer from any illegality requiring this Court's interference in exercise of power of judicial review under Article 226 of the Constitution of India.

12. This application is accordingly dismissed.



13. There shall, however, be no order as to cost.

(Chakradhari Sharan Singh, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	07.04.2021
Transmission Date	N/A

