

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.177 of 2021

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M/s Surajmal Mahadev Lal through its Proprietor Raj Kumar Bajaj, Male,
aged About 41 Years, S/o Late Sita Ram Bajaj, R/o Village-Khagaria, P.S.
Khagaria, District-Khagaria

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies and Commerce, Patna, Bihar.
2. The Principal Secretary, Department of Food and Civil Supplies and Commerce, Patna, Bihar.
3. The Commissioner, Munger Division, Munger.
4. The District Magistrate, Khagaria.
5. The Additional District Magistrate-Cum-District Grievance Redressal Officer, Khagaria
6. The Sub Divisional Officer, Khagaria.
7. The District Supply Officer, Khagaria.
8. The Block Supply Officer, Chautham, Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Neeraj Kumar Gupta, Adv.
For the Respondent/s : Mr. Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 22-10-2021 The present writ petition 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 seeking the following reliefs:-

(i) For quashing and setting aside the



illegal and arbitrary order bearing memo no. 28, dated 15.2.2020 passed by the District Magistrate, Khagaria (Respondent No. 4) whereby and whereunder the license bearing no. 24 of 1985 issued under the Bihar Trade Articles (License Unification) Order 1984 for the wholesale kerosene oil has been cancelled in gross violation of the principles of natural justice i.e. without serving any show cause notice for the proposed cancellation, nor providing a chance of hearing to the petitioner and also without passing a reasoned order.

(ii). For directing the respondents to properly and bonafidely examine the records, stock and the cash memo of the petitioner and also adhere in letter and spirit, the letter bearing no. 26, dated 12.2.2020, issued by the Additional District Magistrate-cum-District Grievance Redressal Officer, Khgaria (Respondent No. 5) wherein the Block Distribution Officer,



Chautham was instructed to bring the petitioner alongwith him, so that reasonable opportunity is allowed to him to present his case.

iii. For commanding the respondents to strictly follow section 11 of the license unification order which categorically states that extreme step of license cancellation cannot be taken without following the principle of audi alteram partem.

iv. For directing the respondent no. 4 who is the licensing authority to restore the license and the sales and supply of kerosene oil to the petitioner's firm with immediate effect.

The Ld. Counsel for the petitioner has raised a short issue for consideration to the effect that no show cause notice has ever been served upon the petitioner, prior to passing of the impugned order dated 15.2.2020, hence, the same stands vitiated in the eyes of law on account of violation of the principles of natural justice.



At this juncture, a query was put to the learned counsel for the Respondent-State, Sri Alok Ranjan (AC to AAG-5), as to whether any show cause notice was served upon the petitioner prior to issuance of the impugned order dated 15.2.2020, to which the learned counsel for the Respondent-State has fairly submitted that from a bare perusal of the counter affidavit filed in the present case, it cannot be said that a show cause notice was ever served upon the petitioner, prior to passing of the impugned order dated 15.2.2020, nonetheless, it is submitted that on account of numerous complaints received from the beneficiaries/ consumers, the license of the petitioner has been cancelled.

I have heard the learned counsel for the parties and perused the materials on record from which it is apparent that the license of the petitioner has been cancelled by the impugned order dated 15.2.2020, in gross violation of the principles of natural justice, inasmuch as the petitioner has not been granted any opportunity to



submit his defence before the learned District Magistrate, Khagaria, since admittedly, no show cause notice was ever issued to the petitioner prior to passing of the impugned order dated 15.2.2020. It may be pointed out that even Rule 11(2) of the Bihar Trade Articles (License Unification) Order, 1984 mandates grant of reasonable opportunity to the licensee to state his case before any action against the proposed cancellation of license is taken with regard to cancellation of license, but the same has not been complied with in the present case, resulting in the impugned order dated 15.2.2020 being vitiated in the eyes of law, hence, is quashed, however, the matter is remanded back to the learned District Magistrate, Khagaria to proceed afresh, in accordance with law and pass appropriate orders, after issuance of show cause notice to the petitioner and seeking his reply thereto as also after granting opportunity of hearing to the petitioner. It is needless to state that the entire exercise, as aforesaid, should be concluded within a period of six weeks from the



date of receipt / production of a copy of this order.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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