

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21216 of 2019

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Nafisa Khatoon D/o Khalil Ahmad, Resident of Village- Pinjarawan, P.S.
Kurtha, District- Arwal.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Collector, Arwal.
3. The Sub-Divisional Officer, Arwal.
4. The Block Supply Officer, Kurtha, Arwal.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K.Agrawal, Sr. Advocate Mr.Dhananjaya Nath Tiwari, Advocate
For the Respondent/s	:	Mr.Alok Ranjan, A.C. to A.A.G.5

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 21-01-2021 Heard Mr. N.K.Agrawal, learned senior counsel for
the petitioner and Mr. Alok Ranjan, learned A.C. to A.A.G.5.

The petitioner seeks quashing of the order dated 28.01.2019 passed by Sub-Divisional Officer, Arwal by which the P.D.S. license of the petitioner being License No.1 of 2006 has been cancelled. The petitioner further seeks quashing of the order dated 03.08.2019 passed by the Collector in Supply Appeal No.1/DM/2019 by which the order of the Sub-Divisional Officer has been confirmed.

Learned counsel for the petitioner assailed the orders on the solitary ground that no sufficient opportunity was provided to the petitioner. The show cause notice was issued on



17.01.2019. The notice was served on the petitioner on 25.01.2019. The petitioner submitted his show cause on 30.01.2019 but the Sub-Divisional Officer passed the order on 28.01.2019 without giving opportunity to the licensee to file show cause. The petitioner preferred appeal and took specific ground that he was not heard and order was passed without perusing his show cause filed on 30.01.2019. It is submitted that no opportunity was given to the petitioner and, therefore, both the orders are illegal and liable to be set aside.

Mr. Alok Ranjan, learned counsel for the State very candidly accepted the facts from the record that the petitioner received the notice on 25.01.2019 and in pursuance thereof, he submitted show cause on 30.01.2019 but the Sub-Divisional Officer cancelled the license of the petitioner by Annexure-3 on 28.01.2019. Even the Collector has not considered the fact that the license of the petitioner has been cancelled without affording proper and sufficient opportunity to the petitioner.

Having considered the submissions, I find that the Sub-Divisional Officer issued notice on 17.01.2019. The petitioner received the show cause notice on 25.01.2019 and filed his show cause on 30.01.2019 but the Sub-Divisional Officer without perusing the records that the notice was served



on the petitioner on 25.01.2019 passed the order on 28.01.2019 cancelling the license of the petitioner. Therefore, I find that no sufficient opportunity was provided to the petitioner and petitioner was not heard. Rule 27 of Bihar Targeted Public Distribution System (Control) Order, 2016 also provides that the licensee should be afforded sufficient opportunity. Thus, I find that the order of the Sub-Divisional Officer dated 28.01.2019 as contained in Memo No. 65 is illegal on account of non-providing sufficient opportunity to the petitioner. The appellate authority suffers from the same vice and, therefore, both the orders dated 28.01.2019 and 03.08.2019 are set aside. The matter is remitted to the Sub-Divisional Officer, Arwal to decide the case afresh after affording proper opportunity to the petitioner within four months. Accordingly, this writ petition is allowed.

(Prabhat Kumar Jha, J)

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