

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18221 of 2016

Devendra Harijan Son of Late Phodo Harijan Resident of village - Barona,
P.S. Barahat, District - Banka

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Food & Supply Department,
Patna, Bihar
2. The District Magistrate, Banka
3. The Sub - Divisional Officer, Banka
4. The Block Supply officer, Belhar Prakhand, District Banka
5. The Block Supply officer, Barahat Block, District Banka

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Senior Advocate
Mr. Braj Nandan Prasad, Advocate
Mr. Kumar Rajdeep, Advocate
Mr. Arvind Kumar, Advocate
For the State : Mr. Manish Kumar, GP-4

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 15-12-2022

Heard Mr. N.K. Agrawal, learned Senior
Advocate for the petitioner and Mr. Manish Kumar, GP-4
for the State.

The licence of the petitioner has been
cancelled, which order has been sustained in appeal.

Mr. Agrawal, however, contends that the
notice served upon him prior to cancellation order was so
vague and general that no effective representation could
have been made. In a general manner, it has been
stated in the notice that the petitioner offered lesser



quantities of food-grains than the entitlement of the beneficiaries and that he charged more amount from them than what he is entitled to. The learned counsel for the petitioner has submitted that against the aforesaid show-cause notice with such vague charges, the petitioner replied by rebutting the allegation by offering proof of the fact that he had distributed food-grains to the beneficiaries in right quantity and had charged the fixed price from them.

The explanation offered by the petitioner was rejected by the licensing authority on the sole ground that it is different from the complaint of the beneficiaries.

The learned counsel for the petitioner, therefore, questions the correctness of such a decision, where a decision was taken relying upon one statement against the other, but giving any reason.

Similar order has been passed by the appellate authority.



The submission urged on behalf of the petitioner has some force.

There was no wherewithal with the licensing authority to assess the veracity of the statement of the beneficiaries on the basis of which proceeding for cancellation was initiated against the petitioner. The situation would have been different if necessary details with respect to the identity of such complainant/beneficiary would have been provided in the notice for him to have effectively rebutted the charge by looking at the register and the documents maintained in the shop of the petitioner. That not having been done, the order does not appear to be on the merits of the case, but only on the assumption of the licensing authority that the beneficiaries have made correct statement and the licensee has made a wrong statement.

Such an order cannot be sustained.

For the aforementioned reason, the order passed



by the appellate authority as also the original order by the licensing authority, cancelling the licence of the petitioner, are set aside.

The matter is remitted to the licensing authority to afford fresh and clear notice to the petitioner within a period of 30 days of receipt/production of copy of this order. After giving reasonable time to the petitioner to respond to such notice within a further period of one month, a decision shall be taken within a period of 60 days thereafter, but only after advertng to the show-cause reply filed by the petitioner. The order shall contain reasons in support of the same and shall be made available to the petitioner at the earliest.

With the aforenoted direction, the writ petition stands disposed of.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.12.2022
Transmission Date	NA

