

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5503 of 2019

Indresh Kumar Son of Sri Ramautar Yadav R/o Village-Kutlupur, Village Panchayat-Kutlupur, P.S.-Khizarsarai, District-Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Food and Consumers Protection, Government of Bihar, Patna
2. The District Magistrate Gaya
3. The Sub Divisional Officer Nimchak Bathani, District-Gaya
4. The Block Supply Officer, Khizersarai Dist-Gaya

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Binay Kumar, Adv.

For the Respondent/s : Mr. Anisul Haque, AC to AAG5

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and

HONOURABLE MR. JUSTICE NAWNEET KUMAR

PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 23-11-2022

Heard Mr. Binay Kumar, learned advocate for the petitioner and Mr. Anisul Haque for the State.

The petitioner had initially challenged the order of cancellation of his license but during pendency of this petition, the appeal preferred by him against such order of cancellation also stood dismissed.

By I.A. No. 1 of 2021, the petitioner seeks to amend the prayer in the petition by making a request for adjudicating the correctness of the order passed in appeal as well.



We have gone through the records and have heard the counsel for the petitioner.

From the order passed by the Licensing Authority, it appears that pursuant to the notice served upon him, he had replied and an opinion also was sought from an Executive Magistrate. The Licensing Authority has recorded in the order that according to the Executive Magistrate, who had made site verification and had assessed the nature of the complaints against the petitioner, it was found that the accusation against him was non-existent. However, the Licensing Authority has cancelled the license of the petitioner on the asking of the Public Grievance Redressal Cell which, according to the learned counsel for the petitioner, is not permissible in the eyes of law.

We are of the considered view that the Licensing Authority was required to advert to the charges against the petitioner, his explanation as well as the report of the enquiry, which was entrusted to an Executive Magistrate and should have come to his own independent conclusion whether the license was required to be retained with the petitioner or it had to be cancelled for breach of any of the conditions of the license or for any other misdemeanor shown by the petitioner. That not having been done by the Licensing Authority, we do not find ourselves inclined to



sustain the order passed by him as also of the appellate authority which has not taken into account the aforementioned fallacy of reasoning in the original order cancelling the license.

For the aforesaid reasons, we set aside the orders passed by the Licensing Authority as also the Appellate Authority and remit the matter to the Licensing Authority to pass a fresh order in accordance with law on the basis of materials so collected in the shape of charges for which the petitioner was issued notice, the reply of the petitioner and the findings of the Executive Magistrate who was entrusted with the enquiry. The entire exercise be concluded and an order be passed by the Licensing Authority within a period of sixty days, to be counted from the date of receipt/production of a copy of this order.

The application stands allowed.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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