

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18777 of 2021

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Lalo Yadav S/o- Late Mukhi Yadav Resident of Village- Santosh, Ward No. 09, P.S.- Alauli, District- Muzaffarpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principle Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Divisional Commissioner Munger.
3. The District Magistrate cum Collector Khagaria.
4. The Sub Divisional Officer cum Licensing Authority Khagaria.
5. The District Supply Officer Khagaria.
6. The Block Supply Officer Alauli Block, Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Preety Kunwar, Adv
For the Respondent/s : Mr.Arvind Ujjwal (SC4)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 11-02-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“ That the present writ application is being filed for issuance of appropriate writ/writs, order/orders, for setting aside the orders dated 15.11.2019 passed by Divisional Commissioner, Munger in Supply revision No. 65/2018 whereby the order dated 06.09.2016 passed in Supply Appeal No. 11/2012 passed by the District Magistrate, Khagaria has been affirmed; which was preferred against the order dated 11.11.2021 contained in Memo No. 802 passed by the SDO Khagaria, whereby the PDS shop license no. 63A/2007 in the name of the petitioner was cancelled illegally. The petitioner consequently prays for setting aside all the orders and reinstating his PDS license.”

Petitioner is a PDS licensee and a show cause notice

dated 6.11.2011 was issued to him to explain the irregularities found during inspection done by Block Supply Officer, Alauli dated 5.11.2011 and he was directed to submit his reply within three days from the date of notice.

Petitioner submitted his reply and by the order dated 11.11.2011 the licence of the petitioner was cancelled as his explanation was found not to be satisfactory and appeal preferred being Supply Appeal No.11 /2012 was dismissed by the District Magistrate, Khagaria by his order dated 6.9.2016 and revision filed by petitioner being Revision case No.65 of 2018 was dismissed by the Divisional Commissioner, Munger by his order dated 15.11.2019.

The show cause notice dated 06.11.2011 is vague and unspecific. The requirement of fair play in action is compliance of principle of natural justice. If the show cause notice is vague and does not contain particulars in support of the allegations and is not accompanied with the relevant material which may be considered by the licensing authority at the time of passing of final orders the same has to be treated as giving inadequate opportunities to the PDS licensee. Only three days time was provided to submit his reply and same amounts to denial of reasonable opportunity.

The order passed by the licensing authority is cryptic and non-speaking and no reason has been assigned for passing such order. There is no consideration of reply of the petitioner in the order passed by the licensing authority, as such, the impugned orders dated 11.11.2011, passed by Respondent No. 4, namely The Sub-divisional Officer cum licensing Authority, Khagaria, order dated 06.09.2016 passed in Supply Appeal No. 11 of 2012 passed by District Magistrate, Khagaria and order dated 15.11.2019 passed by the Divisional Commissioner, Munger in Supply Revision No. 65 of 2018 are quashed and set aside, with liberty to the petitioner to approach Respondent No. 4 afresh.

Petition is disposed of in the following terms:

- (a) The petitioner shall make himself available before the Sub-divisional Officer cum licensing Authority, Khagaria on 07.03.2022;
- (b) On the said date, the entire material shall be supplied to the petitioner;
- (c) Within two weeks thereafter, petitioner shall file response, complete in all respects;
- (d) Petitioner shall fully cooperate and not take any unnecessary adjournment;
- (e) The officer shall pass an order assigning reasons

within a period of three months thereafter;

(f) While considering such request, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

(g) Liberty reserved to the petitioner to challenge the order, should the need so arise subsequently.

The petition is disposed of in the aforesaid terms.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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