

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21200 of 2021

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Ramashish Kumar S/o- Dinanath Kumar Resident of Village- Sanokhra,
Akbarpur, P.S.- Akbarpur, District- Nawada, Bihar.

... .. Petitioner

Versus

1. The State of Bihar Through the Principle Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate Nawada.
3. The Sub Divisional Officer Rajauli, Nawada.
4. The Block Supply Officer Akbarpur, Nawada.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. N. K. Agarwal, Sr. Adv.
Ms.Preety Kunwar, Adv.

For the Respondent/s : Mr. Md. Anisul Haque, AC to AAG -5

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 22-02-2022

1. Heard Mr. N.K. Agarwal, the learned senior counsel for the petitioner and Mr. Md. Anisul Haque, the learned counsel for the State.

2. The petitioner has challenged the order dated 26.11.2021 passed by the Licensing Authority, namely, the Sub Divisional Officer, Rajauli, Nawada whereby the license of the petitioner has been cancelled.



3. The slender ground taken by Mr. Agarwal is that the order passed by the Sub Divisional Officer is based only on the opinion of the Block Supply Officer.

4. It has been urged on behalf of the petitioner that while cancelling the license of a P.D.S. dealer, the Licensing Authority has to satisfy himself that any condition of the license or any provision of the Bihar Targeted Public Distribution System (Control) Order, 2016 has been violated.

5. From the perusal of the order impugned, it appears that the same is primarily based on the opinion of the Block Supply Officer before whom the matter was sent for giving his opinion.

6. There is no difficulty in making a discrete enquiry before coming to any final conclusion. But basing the decision solely on the opinion of the Block Supply Officer is not warranted under the Control Order of 2016. The satisfaction has to be of the Licensing Authority and not of the other functionary under the scheme.

7. While granting license, the application of an



aspirant is sent by the Licensing Authority to the Block Supply Officer / Supply Inspector for scrutiny and enquiry, whereafter their report along with the recommendation of the Licensing Authority is submitted to the District Level Selection Committee for consideration. This is not the requirement under the Control Order, 2016 for taking a decision with respect to cancellation of the license for breach of any of the conditions of the license.

8. We, therefore, are of the view that the order is not sustainable in the eyes of law.

9. The order impugned is, therefore, set aside. The matter is remitted to the Licensing Authority / respondent no. 3 for writing out a fresh order in accordance with law after giving reasonable opportunity to the petitioner to explain his cause.

10. Needless to state that other stakeholders shall also be heard before a final order is passed.

11. It is expected that the final order shall be passed within a period of 60 days from the date of receipt / production of a copy of this order.



11. The writ petition stands allowed and disposed off accordingly.

(Ashutosh Kumar, J)

(Anjani Kumar Sharan, J)

sunilkumar/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.02.2022
Transmission Date	N/A

