

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22842 of 2019

=====

Rajeshwar Pandey Son of Sunder Pandey, Resident of Village- Madhopatti,
P.S.- Kamtoul, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Darbhanga, District- Darbhanga.
3. The Licensing Authority-Cum-Sub-Divisional Officer, Sadar, Darbhanga, District- Darbhanga.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Kaushalesh Choudhary, Advocate

Mr. Rajeev Kumar Labh, Advocate

For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC 4

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 07-07-2022

Heard Mr. Kaushalesh Choudhary, learned Advocate

for the petitioner and Mr. Upendra Pratap Singh for the State.

The petitioner's license has been cancelled by order dated 04.11.2019. The sole ground on which such decision has been challenged is that on the complaint against him, a notice was issued to him on 31.10.2019 for explaining his cause, giving him only three days to do so.

The petitioner, with all the alacrity at his command, furnished his explanation on 05.11.2019, a day after three



days time limit had expired. However, a day before i.e. on 04.11.2019, the order of cancellation of the license of the petitioner has been passed.

The petitioner is definitely required to explain his cause and before passing any order by the licensing authority, he ought to advert to the same. Failing to do so would only result in injustice.

Considering the fact that the petitioner was given a very small window to explain his cause and the order having been passed without even adverting to the reply as it was passed a day prior to the receipt of such reply, we are not able to sustain the order impugned in the present petition.

For the reasons afore-stated, the order impugned is set aside.

The matter is remitted to the licensing authority to issue a fresh notice to the petitioner within a period of sixty days of the receipt/production of a copy of this order. Thereafter, on the reply of the petitioner, a final decision shall be taken by the licensing authority within the next sixty days. The licensing authority shall provide reasonably sufficient



time for the petitioner to explain his cause and shall provide reasons in support of the order.

With the aforesaid directions/observations, this writ petition stands disposed off.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.07.2022
Transmission Date	

