

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.12050 of 2017**

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Manager Prasad Son of Late Basudeo Prasad, Resident of Village- Gariba,  
Police Station- Kalyanpur, District- East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The District Magistrate, East Champaran at Motihari.
4. The Sub Divisional Officer, Chakia, East Champaran Motihari.
5. The Block Supply Officer Chakia Block, East Champaran Motihari.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Sanjay Kumar, Advocate

For the Respondent/s : Mr. Upendra Pratap Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**

**and**

**HONOURABLE MR. JUSTICE SATYAVRAT VERMA**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)**

**Date : 12-01-2023**

Heard the learned counsel for the parties.

2. The licence of the petitioner has been cancelled which order has been affirmed in appeal as well as revision.



3. The learned counsel for the petitioner has drawn the attention of this Court to two issues, namely, that the first order of cancellation of licence is without any reason, whereas in the appellate order, a separate charge has been adverted to for which the petitioner was never confronted in the show-cause notice.

4. It appears from the records that an inquiry was conducted on the complaint of the consumers with respect to irregular supply of food-grains, non-maintenance of the records and the petitioner charging more for the kerosene oil than what he was entitled to and that during inquiry, there was complete non-cooperation.

5. The learned counsel for the petitioner has submitted that against all these charges, even in the absence of the inquiry report which was never afforded to the petitioner despite his insistence, was replied, but the Licensing Authority has only stated in the order of cancellation that those grounds/cause shown by the



petitioner are not satisfactory, but for what reason, those grounds have been rejected is not known.

6. In appeal, on the basis of the materials collected during the inspection of the shop and the records of the case, the Appellate Authority came to the conclusion that the petitioner was indulging in black marketing.

7. Black marketing of the Government food-grains is a serious charge for which the petitioner was never issued show-cause notice.

8. In any view of the matter, in the absence of the inspection report, whatever materials the petitioner could gather in his defence was produced by him.

9. On a totality of circumstance, we find it appropriate to give one more opportunity to the petitioner to explain his cause appropriately after he is served with a copy of the inspection report.

10. We, *prima facie*, are of the view that the orders passed by the Licensing Authority and its



affirmation by the Appellate and the Revisional Authorities are not sustainable in the eyes of law for either not spelling out the reason for rejecting the reply by the licensing authority or a fact weighing with the authority against which no show-cause notice was issued to the petitioner.

11. For the afore-noted reasons, the orders impugned in the present petition are set-aside.

12 The matter is remitted to the Licensing Authority with a direction that the petitioner be afforded the inspection report and we permitted to file his reply within a period of 30 days of the receipt of the production of a copy of this order.

13. After receiving the reply of the petitioner, the Licensing Authority shall record his conclusions and the reasons for arriving at such conclusions and shall take a decision whether the petitioner should be allowed to remain as a licensee or his licence is required to be cancelled.



14. This shall be done within the next 60 days of the receipt of the reply of the petitioner.

15. With the aforesaid observations / directions, the petition stands disposed of.

**(Ashutosh Kumar, J)**

**(Satyavrat Verma, J)**

Rishabh/Praveen

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