

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6535 of 2017

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Kedar Nath Gupta Son of Late Pawan Kumar Gupta Resident of Ward- 4,
Tajpur Road, P.S.- Town, District- Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Samastipur.
3. The Sub- Divisional Magistrate, Samastipur.
4. The District Supply Officer, Samastipur.
5. The Block Supply Officer, Samastipur.
6. The Block Supply Officer, Tajpur, District- Samastipur.
7. The Marketing Officer, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Jha, Advocate Mr. Jitendra Narain Sinha, Advocate Mr. Ujjawal Kr. Singh, Advocate
For the Respondent/s	:	Mr. Anisul Haque, AC to AAG-5

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL JUDGMENT

Date : 20-03-2023

The petitioner assails the order dated 19.07.2013,
passed by the licensing authority whereby the license of the
petitioner was cancelled. The Appellate Authority has upheld the
said order and rejected the appeal vide order dated 13.05.2015.

Learned counsel for the petitioner submits that the
appellate authority as well as the licensing authority failed to
take into consideration the reply filed by the petitioner with
regard to the show cause notice. It is stated that the shop was



closed on account of there being a 'Puja' in his house and the material which was not lifted was on account of the reason that although the amount has been deposited, but the food material was not released. In fact, Xerox copies of the cash memos. were also made available. Learned counsel submits that these aspects have not been considered by either of the authorities.

Learned counsel for the respondents, however, submits that when the show cause notice was served, the same was replied by some other person in the name of the petitioner which cast a doubt about the petitioner actually performing the work of distribution. In fact, the license was obtained as a disabled category candidate and the same was out-sourced, which cannot be allowed.

I have considered the submissions. The show cause notice issued to the petitioner with regard to the shop being closed on working days and on 06.04.2013, 36.96 quintals of wheat was lifted, but could not be measured on account of the shop being closed. The reason for cancellation, however, reflects some other reasons which are not part of the show cause notice. It appears that the licensing authority as well as the appellate authority have gone beyond the show cause notice and cancelled the license for which show cause notice was required to be



given to him. The order, therefore, is found to be perverse and vitiated as per the Act. Show cause notice has not been given to the concerned petitioner with regard to allegations which have been made basis of cancellation of license. The orders dated 19.07.2013 and the appellate order dated 13.5.2015 are quashed and set aside with direction to restore the license forthwith.

The writ petition is, accordingly, allowed.

(Sanjeev Prakash Sharma, J)

K.C.Jha/-
Item No.66

AFR/NAFR	
CAV DATE	
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