

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2772 of 2022

Sudama Sharma, aged about 60 years, male, Son of Badri Sharma, Resident of Village - Khudwan, P.S. - Khudwan District - Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The District Magistrate, Aurangabad.
3. The Sub-Divisional Officer, Daudnagar, Aurangabad.
4. The Block Supply Officer, Block - Obra, Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Advocate
For the State : Mr. Upendra Pratap Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 09-03-2022

Heard Mr. Ashok Kumar, the learned Advocate for the petitioner and Mr. Upendra Pratap Singh, the learned counsel for the State.

2. The licence of the petitioner has been cancelled *vide* order dated 29.01.2021 by the licensing authority, *viz.*, the Sub-Divisional Officer, Daudnagar, Aurangabad (respondent No. 3).

3. *Prima facie*, we find that the order only



refers to the responsibilities of a P.D.S. licensee in general and the representation of the petitioner has been disposed of in one-line holding it to be unsatisfactory.

4. We do not get any idea about the reasons for the licensing authority to come to a conclusion that the licence of the petitioner is required to be cancelled.

5. The aforesaid order has been sustained by the appellate authority *vide* order dated 23.12.2021, which order also does not assign any reason whatsoever for sustaining the order passed by the licensing authority.

6. What has really surprised us is the document contained in Annexure – 5 to this writ petition, which is a communication from the licensing authority to the Block Supply Officer, Obra, Aurangabad, intimating him that the inquiry made in the shop of the licensee and the report given by him on 06.01.2021 was incomplete and misleading. The licensing authority further intimated that such report cannot be relied upon. The Block Supply Officer was asked to explain the circumstances under which such a report was submitted.



7. The order of the licensing authority cancelling the licence of the petitioner does not indicate as to on which report of the Block Supply Officer was the petitioner/licensee noticed to explain his cause. If the report dated 06.01.2021 was found to be misleading and incomplete in all respects, there was no way in which a proper notice could have been given to the licensee.

8. Not mentioning the date of the report of the inquiry, the order cancelling the licence has become suspect in the eyes of law.

9. As noted above, we have also found that the licensing authority has given no reason whatsoever to cancel the licence of the petitioner. If the original order of cancellation does not give any reasons, the appellate authority is not expected to pass any sustainable order against the aforesaid order of cancellation.

10. For the reasons afore-stated, we set-aside the orders passed by the licensing authority as also the appellate authority. The matter is remitted to the licensing authority.



11. The petitioner is directed to place a copy of this order before the licensing authority within a period of 30 days. On receipt of this order, the licensing authority shall issue a fresh notice to the petitioner to explain his cause as to why his licence be not cancelled and on the reply received by him within time, necessary order shall be passed by the licensing authority, providing reasons for his conclusions.

12. The aforesaid decision shall be taken by the licensing authority within a period of 60 days of the reply furnished by the petitioner in that regard.

13. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

(Anjani Kumar Sharan, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11/03/2022
Transmission Date	N/A

