

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5224 of 2014

=====

Md. Afsar Alam S/O Late Md. Hasim Resident Of Ahmadpur, P.S. Simraha, Sub
Division Forbesganj, District Araria.... Petitioner

Versus

1. The State Of Bihar.
2. The Collector, Araria.
3. The Sub Divisional Officer, Forbesganj.
4. The Block Supply Officer, Forbesganj

.... Respondents

=====

Appearance :

For the Petitioners : Mrs. Asha Verma, Advocate

For the State : Mr. Madhukar Mishra, AC to SC 16

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 01-09-2016

Heard learned counsel for the petitioners and the State.

Petitioner seeks quashing of the order dated 26.11.2013 contained in Annexure 2 which is an order passed by the Sub Divisional Officer-cum-Licensing Authority, Foresganj, by which his PDS licence No. 5F/89 has been cancelled as also the appellate order dated 21.01.2014 passed by the Collector, Araria in Control Order Appeal No. 25/2013-14, contained in Annexure 1 by which the aforesaid order has been upheld and the appeal has been dismissed.

At the time of hearing, learned counsel for the petitioner raises a sole question that though the show-cause notice as well as the order impugned is based upon certain allegations made by the beneficiaries and upon having an inquiry made by the Block Supply Officer, the copies of such complaints as well as the inquiry report were never supplied to the petitioner and, as such, the petitioner was never granted adequate opportunity to make out his case.



The issue is no longer *res integra* as this Court on several occasions has taken a view that unless such copies are supplied to the licensee it cannot be held that adequate opportunity was given to him/her before taking final decision, thus, that is not only in violation of the Principles of Natural Justice but also in violation of the mandatory provision contained in clause 7(ii) of the PDS(Control) Order.

From perusal of the order impugned passed by the licensing authority, it appears that the same is based upon inquiry report dated 27.09.2013 and the show-cause notice also reveals that such inquiry was held by the Block Supply Officer on 05.09.2013 and 10.09.2013.

The petitioner has taken a stand in paragraph 8 of the writ petition that copies of the inquiry report or the complaints were never served upon him.

A counter affidavit has been filed on behalf of the State in which in paragraph 14 it has been stated that if the petitioner had necessity of perusing the report of the Block Supply Officer he should have taken it from the authority concerned.

In my view, such stand apart from being erroneous is against the settled Principles of Natural Justice. If any allegation is made and inquiry is held and a show-cause notice is required to be served upon the licensee to answer the charges framed against him then, before taking a final decision, copies of complaints and reports

are mandatorily required to be sent so that a proper reply could have been filed by the licensee. That admittedly having not been done, the order impugned passed by the licensing authority against the petitioner is not sustainable in law.

In that view of the matter, the orders impugned passed by the Sub Divisional Officer-cum-Licensing Authority, i.e., respondent no. 3, contained in Annexure 2 and the appellate order passed by the Collector, i.e., respondent no. 2, contained in Annexure 1 are quashed and set aside and the matter is remitted back to the licensing authority(respondent no. 3) who shall first serve copies of the complaints as well as the inquiry report along with the charges upon the petitioner and, thereafter, he will grant opportunity to him for filing a reply thereof. Upon consideration of such reply, a fresh decision would be required to be taken by him on its own merit and in accordance with law within three months from the date of receipt/production of a copy of this order.

Accordingly, this writ application stands allowed.

(Dr. Ravi Ranjan, J)

SC/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.09.2016
Transmission Date	NA