

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 3818 of 2016

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Manoj Kumar Gupta S/o Mahendra Sah Resident of village - Harpur
Balra, P.S. Manihari, District – Muzaffarpur.

.... Petitioner.

Versus

1. The State of Bihar through Secretary, Food & Civil Supply,
Government of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Sub - Divisional officer, Muzaffarpur.
4. The Block Supply officer, Kudhani, Muzaffarpur.

.... Respondents.

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Appearance :

For the Petitioner : Mr. D.N. Tiwary, Adv.

For the Respondents: Mr. Chitranjan Sinha, Sr. Adv. PAAG-2,
: Mr. Niraj Kumar Sinha, AC to PAAG-2

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-12-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of Annexure-3, which is an order dated 10.09.2014 passed by the Sub-divisional Officer-cum-Licensing Authority, West, Muzaffarpur by which the PDS licence of the petitioner has been cancelled. Petitioner also assails the order dated 08.12.015, as contained in Annexure-5 passed by the Collector, Muzaffarpur in Case No. 08 P.D.S./2014-15 by which the appellate authority has also upheld the order passed by the licensing authority and has dismissed the appeal.

The sole ground taken for assailing the impugned order,



as contained in Annexure-3 is that the petitioner was not granted adequate and reasonable opportunity to make out his case as provided under Clause 7(ii) of the PDS (Control) Order, 2001 and a copy of the report of inquiry conducted on 21.08.2014 conducted by the Block Supply Officer, Kudhani, Muzaffarpur was never supplied to the petitioner.

As per the direction, the Sub-divisional Officer, West, Muzaffarpur is present and has informed to the extent that the petitioner's submission appears to be correct as the records do not show that the copy of the inquiry report was supplied along with show cause notice.

In such a situation, this Court has no option except to quash the order as the issue is no longer *res integra* as the same has been considered and decided by this Court in the case of **Brahmdeo Rai vs. The State of Bihar & Ors. [2013(2) PLJR 706]** holding that in the absence of a copy of report, the noticee would not be aware about the facts and circumstances in which such recommendation was made in inquiry report and how to counter that for his or her benefit. It has been held that in such a situation it cannot be assumed that the adequate and reasonable opportunity was granted to the noticee to make out his case in a proceeding for cancellation of licence, as provided under Clause



7(ii) of the PDS (Control) Order, 2001.

As a result, this writ application stands allowed to the extent as indicated above. The impugned orders dated 10.09.2014 and 08.12.2015, as contained in Annexure-3 and 5 are quashed and set aside since the appellate authority has also not considered this aspect of the matter. Since the copy of the inquiry report has already been brought on record as Annexure-A to the counter affidavit, the petitioner would be required to submit the reply to the show cause notice once again. If that is done then fresh order would be required to pass by the licensing authority considering the grounds raised by the petitioner in his reply. The order should be speaking and reasoned one.

It is expected that final decision would be taken within a period of two months after filing of such reply by the petitioner alongwith a copy of this order.

Personal appearance of the Sub-divisional Officer, West, Muzaffarpur is dispensed with.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.02.2017
Transmission Date	NA

