

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9775 of 2014

Karan Kumar Mahto Son of Sri Mahabir Prasad Mahto Resident of Village-
Kalyanpur, P.S- K. Nagar, District- Purnea.

.... Petitioner

Versus

1. The State of Bihar
2. The SDO, Sadar, Purnea.
3. The BSO, K. Nagar, District- Purnea.

.... Respondents

Appearance :

For the Petitioner : Mr. Vijay Anand, Advocate

For the State : Mr. Gyan Prakash Ojha, GP 22

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 28-06-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of Annexure 3 by which the
Sub Divisional Officer – cum – licensing authority, Sadar, Purnea has
cancelled the PDS licence of the petitioner.

Sole question raised on behalf of petitioner is that,
before passing of final order of cancellation, copy of inquiry report
which was the basis of the issuance of show cause notice and the
grounds for cancellation of licence, was never served upon the
petitioner and as such no adequate opportunity was given to the
petitioner.

The petitioner has raised this issue by making statement
in paragraph 12 of the writ application and the State in reply thereof



in paragraph 10 of the counter affidavit has stated that the same does not require any comment, whereas, in paragraph 9 it is stated that petitioner did not demand inquiry report or any other relevant documents at the time of consideration of cancellation of his licence and as such he cannot raise such issue before this Court. It is next urged by learned counsel for the State that this matter should be relegated to the appellate authority as the petitioner has approached this court without availing the statutory remedy of appeal.

The aforesaid submissions made on behalf of the State are noted only to be rejected. Clause 7(II) of the PDS Control Order, 2001 mandates the licensing authority to grant reasonable opportunity to the licensing authority to make out his case before passing an order of cancellation.

In my considered view, if a copy of the inquiry report or the complaint made by the beneficiaries are not provided or supplied to the petitioner by the licensing authority before filing a reply then it has to be held that no adequate opportunity was given as he could not have filed a proper reply without perusal of the materials which have been found against him.

The issue is no longer *res integra* as having been decided by this Court in **Brahmdeo Rai vs. The State of Bihar & ors.** [2013(2) PLJR 706] holding that non supply of the copy of the



inquiry report and the statements of the charges levelled by the beneficiaries to the petitioner would lead to a situation where it can safely be construed that principle of natural justice have been violated. Yet another decision of a coordinate bench of this Court in **Raghuvir Prasad vs. State of Bihar [2015(2) PLJR 910]** has also held that lack of supply of inquiry report conducted by the District Level Committee, which is foundation of issuance of show cause notice, has prejudiced the petitioner to file his purposeful reply and in absence thereof, the order impugned are based on no materials.

So far the second issue raised on behalf of the State regarding alternative remedy is concerned, since this Court is already of the opinion that the order suffers from fatal lacuna, no purpose would be served by relegating the petitioner to the appellate forum.

Accordingly, this writ application stands allowed. The impugned order as contained in Annexure 3 is quashed and set aside.

The matter is remitted back to the licensing authority to first supply copy of the inquiry report to him and copies of the complaints made by the beneficiaries, if any, and, thereafter, grant reasonable opportunity to the petitioner once again to file a reply. Thereafter, the licensing authority would be required to pass fresh order considering the grounds raised by the petitioner in reply. However, the petitioner would also have to cooperate in the matter

and he should appear on the date fixed failing which the authorities concerned would be liberty to proceed even in his absence.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
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