

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1930 of 2014

=====

Baldeo Prasad, Son Of Late Ram Lachhan Mahto, Resident Of Village - Bhaluaha,
P.S. Sonbarsa, District - Sitamarhi

.... Petitioner

Versus

1. The State of Bihar, through the Secretary, Food And Civil Supply
2. The District Magistrate, Sitamarhi
3. Sub - Divisional Officer, Sitamarhi
4. Sri Kumar Vijayendra, Senior Deputy Collector, Sitamarhi
5. Block Supply Officer, Sonbarsa, Distt. - Sitamarhi

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Yogendra Mishra, Advocate
Mr. Arvind Kumar Jha, Advocate
For the Respondent/s : Mr. Satyapal Singh, AC to SC-15

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 12-07-2016

Heard learned counsel for the petitioner and the State.

The petitioner seeks quashing of the order dated 20.11.2013, as contained in Annexure-4, passed by the Sub-Divisional Officer-cum-licensing authority, Sitamarhi Sadar by which his licence no. 12/2013 granted for running P.D.S. shop has been cancelled.

At the time of hearing, learned counsel for the petitioner submits that the order impugned suffers from diverse flaws. First is that copy of the enquiry report dated 9.09.2013 of the Senior Deputy Collector, Sitamarhi, which forms the basis of issuance of show cause notice as well as order of cancellation of licence of the petitioner, was never served upon him before taking a final decision. A categorical



statement in this regard has been made in paragraph 11 of the writ petition stating that due to that the petitioner could not get opportunity to file effective reply. It is next contended that even the grounds raised in the reply to the show cause notice have not been considered at all by the licensing authority as only one sentence has been devoted stating that 'his reply is not satisfactory'. In my view, this writ petition succeeds on both counts.

By now, it is well settled that non-consideration of grounds raised by the petitioner makes the impugned order passed by the licensing authority arbitrary in nature being in violation of principles of natural justice as also in violation of Clause 7 (ii) of Public Distribution System (Control) Order, 2001 which mandates that a reasonable opportunity should be granted to a licensee for defending his case before cancellation of licence, which necessarily mean that the grounds raised in the reply to the show cause notice should be considered and speaking order should be passed.

In the case in hand, the enquiry report has formed basis for levelling of charges and taking a decision of cancellation also but in the counter affidavit filed on behalf of the State it has nowhere stated that the same was served upon the petitioner. Thus, in my view, in that count also, the writ petition is fit to be allowed as that would vitiate the entire proceeding not only being in violation of principles

of natural justice but also in violation of the Clause 7 (ii) of Public Distribution System (Control) Order, 2001.

Accordingly, this writ application succeeds. The impugned order as contained in Annexure 4 is quashed and set aside.

However, the matter is remitted back to the licensing authority for taking a fresh decision in the matter. Before doing that, he would furnish a copy of the enquiry report and the complaints made by the beneficiaries, if any and, thereafter, grant reasonable opportunity to the petitioner to file a fresh reply and a final decision should be taken after consideration of grounds raised by the petitioner in his reply and the order should be reasoned and speaking one.

It is expected that entire exercise would be completed within a period of three months from the date of receipt/production of a copy of this order. However, if the same is not done within three months, then the petitioner's supply would be required to be restored which would be subject to the final decision of the licensing authority.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	3.08.2016
Transmission Date	N.A.