

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.486 of 2016

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Vijay Kumar Singh, son of Late Rajju Singh, resident of village- Parihari, Block-
Raniganj, P.S.- Raniganj, District- Araria

.... Petitioner

Versus

1. The State of Bihar
2. The Collector, Araria
3. The S.D.O., Araria
4. The District Supply Officer, Araria
5. The Additional District Supply Officer, Araria
6. The Block Development Officer, Araria

.... Respondents

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Appearance :

For the Petitioner : Mr. Asha Verma, Advocate

For the State : Mr. Bhaskar Shankar, AC to GP16

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 12-04-2016

Heard parties.

Petitioner is aggrieved by the order dated 25.08.2015 by which his P.D.S. licence no. 68R/2007 has been cancelled with immediate effect. He also assails the order as contained in Annexure-1 passed by the Collector, Araria by which the appeal has been dismissed. The petitioner has raised a ground in this application that a copy of enquiry report as well as copies of the complaints made by the beneficiaries against the petitioner were never served upon him before taking a final decision.

A counter affidavit has been filed on behalf of respondent nos. 2 to 5 accepting in paragraph 5 in clear terms that a

copy of enquiry report was never served upon the petitioner.

It is contended on behalf of the State that the enquiry was conducted in presence of petitioner and his signature was obtained on enquiry report, however, endorsement made by the petitioner on the enquiry report, which has been brought on record along with counter affidavit, is only to the extent that in his presence stock has been verified. However, that is not the only ground on which, petitioner's licence has been cancelled. It is apparent from the show cause notice which has been appended as Annexure-A to the counter affidavit that after 15th of April, he has not distributed *Antyodaya* foodgrains. Though, he has been taking more price from the beneficiaries but distributing lesser amount of foodgrains, that would definitely be based upon the complaints made by the beneficiaries but it is not stated that the copies of the same were served upon the petitioner.

By now, it is well settled that if the copy of the enquiry report is not supplied with the show cause notice, it cannot be held that reasonable and adequate opportunity was given to the licensee to make out his case before cancellation of licence. Thus, in my considered opinion, the impugned orders as contained in Annexures 1 and 2 are not sustainable in law due to aforesaid fatal lacunae which strikes at the root of the Principles of Natural Justice.

Accordingly, this writ application succeeds. The impugned order as contained in Annexures 1 and 2 are quashed and set aside. The matter is remitted back to the licensing authority to serve copies of the complaints made by the beneficiaries, if any, as a copy of the enquiry report has already been appended with the counter affidavit. The petitioner should be granted fresh opportunity to file a fresh reply in view of the complaints of the beneficiaries as well as enquiry report. After consideration of the same, the licensing authority would be required to take a final decision in the matter. It is expected that the entire exercise would be completed within a period of three months from the date of receipt/ production of a copy of this order. However, it is made clear that, in case the petitioner fails to furnish his reply after opportunity given to him, the licensing authority would be at liberty to proceed and conclude the proceeding even in its absence.

(Dr. Ravi Ranjan, J.)

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