

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20233 of 2013

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Lal Deo Sahani S/O Late Jagdish Sahani Resident Of Village- Pir Mohamadpur,
P.S.- Aahia, District- Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar through the Collector, Muzaffarpur
2. The District Magistrate, Muzaffarpur
3. The Sub-Divisional Officer, Muzaffarpur
4. The District Supply Officer, Muzaffarpur
5. The Block Supply Officer, Musahari, Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate

Mr. D.N. Tiwari, Advocate

For the Respondent/s : Mr. Dhananjay Kumar, AC to GP-16

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 29-03-2016

Heard parties.

The petitioner seeks quashing of the order dated 31.10.2011 passed by the Sub-Divisional Officer, Muzaffarpur by which he has cancelled the licence of the petitioner granted for running P.D.S. Shop. He also assails the order passed by the appellate authority as contained in Annexure-1/1 dated 9.04.2013 by which the appeal has been dismissed and the order passed by the Sub-Divisional Officer has been upheld.

The sole issue that has been raised on behalf of the petitioner is that before passing the final order, a copy of the inquiry report was never served upon the petitioner, thus, the order is in

violation of Clause 7 (ii) of the Public Distribution System (Control) Order, 2001 as no reasonable opportunity was ever granted to the petitioner to make out his case.

Counter affidavit and supplementary counter affidavit have been filed on behalf of the petitioner, however, learned counsel for the State has fairly submitted that though a copy of the enquiry report has been brought on record along with supplementary counter affidavit but there is no averment that the same was ever served upon the petitioner.

In such a situation, this Court would have to hold that such report was never served. Having held so, now orders impugned cannot be held to be sustainable in law. It is well settled that if a copy of the enquiry report which has formed basis for cancellation of licence was not served along with copies of the complaints of beneficiaries, if any, upon the licensee then he would not have been in a position to file a proper reply to the show cause notice and, as such, it can safely be construed that a reasonable opportunity was not given to the licensee.

Accordingly, this writ application succeeds. The impugned orders are quashed and set aside.

However, the matter is remitted back to the licensing authority for fresh consideration in accordance with law. He would

supply a copy of the inquiry report along with copies of complaints, if any, and grant another opportunity to the petitioner to file a reply to the show cause notice and upon consideration of grounds raised by him and the materials available on record, a fresh and reasoned order would be required to be passed by him on its own merit and in accordance with law.

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.

It is made clear that this order would not mean automatic resumption of the supply to the petitioner as the same would depend upon the nature of the order which would finally be passed by the licensing authority.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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