

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5935 of 2016

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Shivjee Sah, S/o Ram Sherestha Sah, Resident of Harpursari, Panchayat- Gisara, PS
Parsouni, District Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar through the Collector, Sitamarhi.
2. The Collector, Sitamarhi.
3. The Sub Divisional Officer, Belsand, Sitamarhi.
4. The Block Supply Officer, Parsouni, District Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Advocate
For the Respondent/s : Mr. Rewti Kant Raman, AC to SC-11

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-12-2016

Heard parties.

The petitioner seeks quashing of Annexure-3, which is an order dated 10.02.2016 passed by the Sub-Divisional Officer-cum-Licensing Authority, Belsand, Sitamarhi by which his PDS Licence No.47/2007 has been cancelled.

It is submitted on behalf of the petitioner that the impugned order is not speaking one as the petitioner's reply has not been considered at all and only on the basis of the enquiry conducted by the Block Supply Officer, Parsouni on 29.09.2015 and 1.02.2016, the petitioner's licence has been cancelled.

The issues are no longer *res integra* as it is well settled that if the show cause notice is issued and reply is submitted by the



licencee then grounds raised by him/her would have to be considered by the licensing authority and a reasoned order would be required to be passed.

While passing the impugned order, the licensing authority has merely placed reliance upon the reports of the enquiry submitted by the Block Supply Officer concerned. That may be a piece of evidence but that cannot be a clinching the point in the absence of any consideration of the reply filed by the petitioner.

It is apparent from the supplementary counter affidavit filed today that the copies of the reports of enquiry were never served upon the petitioner along with the show cause notice.

In above view of the matter, this Court does not have any hesitation in holding that the impugned order suffers from the vice of arbitrariness and, as such, the same cannot be sustained in law.

As a result, this writ application succeeds. The impugned order, as contained in Annexure-3, is quashed and set aside.

The matter is remitted back to the licensing authority, who shall serve copies of both the enquiry reports upon the petitioner. Thereafter, allow him reasonable time to respond. If any reply is filed then a final decision should be taken by the licensing authority in accordance with law by passing speaking and reasoned order.

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.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	13.02.2017
Transmission Date	N.A.

