

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7920 of 2016

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Lalan Ram Son of Manuki Ram Resident of village - Dariyapur, P.S. Naubatpur,
District - Patna

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Bihar, Patna
2. The District Magistrate, Patna
3. The Sub - Divisional officer, Danapur, District Patna
4. The Block Supply officer, Naubatpur, Sub - Division - Danapur, District - Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. Mukul Prasad, Advocate
For the Respondents : Firoz Ahmad, AC to AAG 12

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 20-12-2016

Heard.

Petitioner seeks quashing of the order dated 30.3.2016 passed by the licensing authority – cum – Sub Divisional Officer, Danapur as contained in Annexure 1, by which his licence for running fair price shop bearing No. 75/2007 has been cancelled.

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.



It is apparent from the show cause notice dated 25.1.2016 issued vide Annexure 2 upon the petitioner that the charges levelled against the petitioner are on the basis of some inquiry which has been made by the Block Supply Officer, Maner. It is submitted that unless a copy of report submitted after such inquiry is supplied to the licensee a proper reply to the show cause notice would not be possible.

In reply to such allegation alleged in the writ petition a stand has been taken by the respondents in the counter affidavit that it was not given to the petitioner as he did not demand it. In my view that concept is erroneous.

The issues are no longer *res integra* as it is well settled that if the show cause notice and eventually the order of cancellation is passed upon any inquiry then its report would be required to be supplied to the concerned licensee along with the show cause notice to enable him to file a just and proper reply. In the absence of the same it cannot be held that the principle of natural justice has been followed. Apart from that it would also be in violation of relevant provision as contained in Clause 7(ii) of the Public Distribution System (Control) Order.

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-1, is quashed and set aside.

The matter is remitted back to the licensing authority, who shall serve copy of 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)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
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