

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 15800 of 2014

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Arun Kumar Singh S/o Late Ramroop Singh Resident of Bela, P.O. -
Chiryanwa, P.S. - Atri, District - Gaya.

.... Petitioner.

Versus

1. The State of Bihar through the Secretary, Food, Consumer and
Protection Department, Government of Bihar, Patna.
2. The Collector, Gaya.
3. The Sub Divisional Officer, Nimchakbathani, Gaya.
4. The Block Supply Officer, Atri-cum-Mohra, Gaya.

.... Respondents.

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Adv.

For the Respondents: Mr. Upendra Pratap Singh, AC to SC-4.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 08-12-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the order dated
06.08.2013 passed by the Sub-divisional Officer,
Nimchakbathani, Gaya, as contained in Annexure-1 by which the
PDS licence no. 11 of 2008 was cancelled as well as the
appellate order dated 04.06.2014 passed by the District
Magistrate, Gaya, as contained in Annexure-2 by which Supply
Appeal Case No. 42 of 2013 has been dismissed.

It is apparent that the show cause notice dated
18.07.2013 was issued explaining the charges leveled against the



petitioner on the basis of inquiry made by Block Supply Officer, Atari. As per the order passed by the Sub-divisional Officer-cum-Licensing Authority, Gaya, it appears that the order is also based upon the findings of such inquiry.

The sole ground taken by the petitioner is that a copy of the report of such inquiry which forms the basis of issuance of show cause notice and the impugned order was not supplied to the petitioner.

The issue is no longer *res integra* as this Court has decided on several occasions that in case the show cause notice and the impugned order are based upon the findings of the inquiry report which was never supplied to the licensee, it cannot be held that he was granted adequate and reasonable opportunity to explain his case in a proceeding for cancellation of licence.

Apart from being in violation of the principle of natural justice, the aforesaid action would also be violative of the mandatory provisions contained in Clause 7(ii) of the PDS (Control) Order, 2001.

In such a situation, in my view, the orders impugned are not sustainable in the eye of law as they suffer from the aforesaid vice. In the result, this writ application succeeds. The impugned orders, as contained in Annexure-1 and 2 are quashed



and set aside.

Since a copy of the inquiry report has been brought on record, the petitioner would be required to file a fresh reply to the show cause notice within a period of eight weeks from today. On such reply having been filed, let the Sub-divisional Officer take a fresh decision on its own merit and in accordance with law within a further period of two months.

It is made clear that if the petitioner does not file a fresh reply within the aforesaid period then the Sub-divisional Officer would be at liberty to pass fresh order even without waiting the reply of the petitioner.

The personal appearance of the Sub-divisional Officer, Gaya is dispensed with.

Accordingly, this application stands disposed of.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.12.2016
Transmission Date	NA

