

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20375 of 2014

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Ram Ishwar Singh, Son of Late Hari Charan Rai, Resident of Village - Lodipur,
Police Station - Maner, 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, Maner Sub-Division Danapur, District - Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Mukul Prasad, Advocate

For the Respondent/s : Ms. Shilpi Keshri, AC to AAG-X

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 05-12-2016

Heard parties.

The Sub-Divisional Officer, Danapur is present in person and informs this Court that a copy of the enquiry report was never served upon the petitioner.

It appears from Annexure-2 which is a show cause notice dated 16.08.2014 that the charges were levelled on the basis of the enquiry made by the Block Supply Officer on 21.07.2014. Annexure-1 which is an order dated 21.10.2014 passed by the Sub-Divisional Officer-cum-Licensing Authority, Danapur also discloses that the same is based upon the enquiry made as above. Admittedly, a copy of the enquiry report was never served upon the petitioner.



In above view of the matter, this Court does not have any hesitation in holding that sufficient and adequate opportunity was never given to the petitioner to make out his case before taking a final decision regarding cancellation of his licence.

This issue is no longer *res integra* as this Court in its several decisions has held that if such enquiry report is not given along with a show cause notice then that action would be not only in violation of the principles of natural justice but also in violation of mandatory provision under Clause 7(ii) of the Public Distribution System (Control) Order, 2001 which envisages in clear terms that before taking an extreme action of cancellation of licence, the licensee should be given reasonable and adequate opportunity to make out his case. A copy of the enquiry report, which forms basis for issuance of show cause notice and, ultimately, the order of cancellation of licence, was never supplied to the petitioner, thus, no prudent person come to the conclusion that adequate opportunity was given.

Accordingly, in my view, the order impugned, as contained in Annexure-1 dated 21.10.2014, is not at all sustainable in the eye of law and, as such, the same is quashed and set aside.

As a result, this writ application stands allowed.

However, the matter is remitted back to the Licensing Authority with a direction that a copy of the enquiry report would be



served upon the petitioner and another opportunity of submitting reply should be granted to him. If the petitioner files such reply within the time granted by the licensing authority then final order should only be passed after considering the grounds which would be raised by the petitioner in his reply.

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.

The personal appearance of Sub-Divisional Officer, Danapur is dispensed with.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	16.03.2017
Transmission Date	N.A.

