

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.25382 of 2013

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Kailash Prasad Son Of Late Chamari Singh Resident Of Village- Shankarpur, P.O.-
Karubigha, P.S.- Nimchak Bathani, District- Gaya

.... Petitioner

Versus

1. The State Of Bihar Through The Secretary, Food And Consumer Protection
Department, Old Secretariat, Patna
2. The District Magistrate, Gaya, District- Gaya
3. The Sub-Divisional Officer, Nimchak Bathani, District- Gaya

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate
For the State : Mr. Harish Kumar, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 05-04-2016

Heard parties.

Petitioner is aggrieved by the order dated 14.05.2012 passed by the Sub-Divisional Officer, Nimchak Bathani, Khijarsarai, as contained in Annexure-1, by which licence no.39/2009 granted to him for running PDS shop has been cancelled. Petitioner also assails the order dated 09.07.2013 passed by the District Magistrate, Gaya, as contained in Annexure-4, by which the District Magistrate has affirmed the order of the Sub-Divisional Officer and rejected the appeal.



Sole ground raised on behalf of the petitioner is that the decision for cancellation of his licence was taken without granting reasonable opportunity to the petitioner as a copy of the inquiry report which forms the basis of the show cause notice as well as the order of cancellation was never served upon the petitioner. Petitioner has stated this fact in paragraph no.12 of the writ petition but there is no specific denial by making statement in the counter affidavit filed on behalf of the respondent nos.1 to 3 further stating that a copy of the inquiry report was made available to the petitioner before taking a final decision in the matter.

It is well settled that if the show cause notice as well as the proceeding and order of cancellation is based upon such inquiry report which was never supplied to the petitioner then it cannot be held that reasonable opportunity of stating his case was given to the licensee concerned as in the absence of the inquiry report no proper reply can be filed by the licensee answering the charges.

In above view of the matter, this writ application succeeds. The impugned orders are quashed and set aside. The matter is remitted back to the Licensing Authority. The Licensing Authority would supply a copy of the inquiry report as well as copy of the complaints made by the beneficiaries, if any, and grant him fresh opportunity to file reply to the show cause notice. Thereafter, the

Licensing Authority would be required to take fresh decision in the matter after considering grounds raised by the petitioner in his reply. It is expected that the whole exercise would be completed within a period of two months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

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