

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4421 of 2014

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Sheela Devi, Wife of Sri Banarshi Choudhary, Resident of Muhalla - Khagra,
Chaprasi Tola, Ward No. 22, P.O., P.S. And District - Kishanganj

.... Petitioner

Versus

1. The State of Bihar through The Secretary Food and Consumer Protection
Department, Old Secretariat, Patna
2. The District Magistrate, Kishanganj, District - Kishanganj
3. The Sub Divisional Officer, Kishanganj, District - Kishanganj

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Advocate

For the Respondent/s : Mr. Ajay Bihari Sinha, GA-8

Mr. Neeraj Raj, AC to GA-8

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 13-12-2016

Heard parties.

The petitioner assails Annexure-1, which is an order dated 15.01.2014, on two grounds. First ground is that a copy of the report of enquiry conducted by the Block Supply Officer on 24.08.2013, which forms basis of issuance of show cause notice upon the petitioner as well as passing of the impugned order, as contained in Annexure-1, was never supplied to the petitioner. The second ground is that the petitioner's reply has not been considered in proper perspective as merely one sentence has been devoted in the impugned order stating that petitioner's reply has not been found to be satisfactory.

The petitioner has alleged in paragraph 13 of the writ



petition that a copy of enquiry report was never served upon her and, as such, no reasonable opportunity was given, but in the counter affidavit filed on behalf of the respondent nos. 2 and 3, it has been stated in paragraph 14 that in compliance of the Control Order, show cause notice was issued upon the petitioner stating five charges, however, it is not stated as to whether a copy of enquiry report was served upon the petitioner or not?

Since no specific reply has been given, it has to be understood that a copy of the enquiry report was never served upon the petitioner. Once it is understood to above, this Court would have no hesitation in holding that this writ application would succeed on both counts.

It is well settled that, as per the Clause 7(ii) of the Public Distribution System (Control) Order, 2001, reasonable and adequate opportunity has to be given to the licensee before cancellation of the licence. It has been held in several decisions that if the inquiry report forms a ground for issuance of show cause notice and also for cancellation of licence then copy of the same must be supplied before taking a final decision so that effective reply could be filed by the licensee otherwise it has to be held that adequate opportunity was not given to him. That apart, if the grounds raised by the petitioner have also not been considered in the impugned order and it has not been stated as to why such grounds were not found tenable



then that would be in violation of the principles of natural justice.

In my considered view, the impugned order suffers from aforesaid fatal lacuna and, accordingly, the same cannot be allowed to be sustained.

As a result, this writ application succeeds. The impugned order, as contained in Annexure-1, is quashed and set aside.

However, the matter is remitted back to the Licensing Authority for taking a fresh decision in accordance with law. Before coming to a final conclusion, copy of the inquiry report should be supplied to the petitioner and a fresh opportunity should be given to her for filing effective reply to the show cause notice. Thereafter, the decision should be taken by the Licensing Authority on its own merit and in accordance with law after considering the grounds raised by the petitioner in her reply and that should be speaking one.

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	26.02.2017
Transmission Date	N.A.

