

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12528 of 2014

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Nemi Lal Choudhary, son of Sri Sheo Lal Choudhary, resident of Village -
Adampur Piplama, P.S. - Naubatpur, District - Patna.

.... Petitioner

Versus

1. The State of Bihar through Secretary Food & Civil Supply Department, Patna.
2. The SDO, Danapur, Patna.
3. The Senior A.D.M. Cum In-Charge, ADSO, Danapur, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Vijay Anand, Advocate
For the Respondent/s : Mr. Dhurjati Kr. Prasad, G.P.-14
Mrs. Jahan Ara, AC to GP-14

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 06-12-2016

Heard parties.

The petitioner is aggrieved by Annexure-3 dated
12.06.2014 by which his PDS Licence No.50/2007 has been cancelled
by the Sub-Divisional Officer-cum-Licensing Authority, Danapur.

It appears that an enquiry was held by Senior Deputy
Collector-cum-I/c Assistant District Supply Officer, Danapur on
24.09.2013. On the basis of the report of the enquiry, show cause
notice was issued on 15.10.2013 upon the petitioner vide Annexure-1.
It appears that four charges have been levelled in that show cause
notice. However, the impugned orders shows that after petitioner
submitted his reply to the show cause notice, again an enquiry was
held jointly by the Marketing Officer of the department as well as the



Block Supply Officer on 21.01.2014. On the basis of the second enquiry, FIR has also been lodged against the petitioner and, thereafter, the order impugned talks about seven charges which have been levelled on the basis of second enquiry report, however, it is not stated anywhere in the impugned order that a copy of such reports was given to the petitioner or a further show cause notice on the basis of second inquiry was issued upon the petitioner.

It is apparent from the impugned order itself that after joint inquiry, as stated above, on 21.01.2014, no show cause notice was again issued upon the petitioner and directly the order of cancellation of licence on the basis of such reports has been passed, which, in my considered opinion, is 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 contemplates 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-3 dated 12.06.2014, 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 reports would be served upon the petitioner and another opportunity to file a reply should be granted to him. If the petitioner files such reply within the time granted by the licensing authority then final order should 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.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	01.03.2017
Transmission Date	N.A.

