

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16533 of 2015

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Saroj Devi, w/o Sattan Ram, resident of Village- Moubehat, P.S.+Circle
Office-Manigachhi, District- Darbhanga (Bihar)

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Department of Food and Supply, Consumer Protection, Govt. of Bihar, Patna.
2. The Collector-cum-District Magistrate and Appellate Authority, Darbhanga
3. Sub-Divisional Officer-cum-Licensing Authority, Sadar Darbhanga
4. Assistant District Supply Officer, Sadar Darbhanga
5. Block Supply Officer, Manigachhi, Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh, Advocate

For the Respondent/s : Mr. Jay Prakash Sharma AC to G.P. 11

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

3 12-01-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the order dated 08.09.2014 passed by the Licensing Authority-cum-Sub Divisional Officer, Sadar, Darbhanga by which his licence no. 14/2007 granted for running the P.D.S. shop under Public Distribution System (Control) Order, 2001 has been cancelled. Petitioner also assails the appellate order dated 05.06.2015 contained in Annexure 6 by which the order passed by the Licensing Authority has been upheld and the appeal has been dismissed.

Two short questions have been raised by the petitioner at the time of hearing. It is contended that the order suffers from



the vice of the violation of principle of natural justice inasmuch as reasonable opportunity was not granted to the petitioner to defend her case. It is submitted that the impugned order passed by the Licensing Authority is based upon an enquiry conducted by Additional District Supply Officer (A.D.S.O.), however, a copy of the same was never supplied to the petitioner. It is next contended that even copies of the complaints made by the beneficiaries/customers were also not supplied. Thus, it is urged that petitioner has been prevented from filing a proper reply to the show-cause notice in the absence of the aforesaid documents. It is next contended that even reply to the show-cause notice filed by the petitioner has also not been considered in its proper perspective, as sole sentence which has been devoted for that purpose in the order passed by the Licensing Authority is that the reply is away from truth and, thus, is not acceptable.

A counter-affidavit has been filed on behalf of the State-respondent, however, there is no answer in the counter-affidavit to the allegations made in paragraphs 14, 18 and 20 where statement has been made that the copies of the complaints and enquiry report was never supplied to him. Thus, it has to be understood that the petitioner's allegation is correct. That being the situation, this Court would find force in the submission raised

on behalf of the petitioner.

In my view, for filing a proper reply to answer the charges leveled in the show-cause notice, supply of the documents which have formed basis of leveling such charges would be required. In the absence of that, it cannot be said that adequate and reasonable opportunity was given under Clause 7 (II) of the Control Order to the petitioner to place his case.

Secondly, the order of the Licensing Authority suffers from another vice also as it has not at all considered the grounds of the petitioner raised in reply and while rejecting the same, it has not been recorded anywhere as to why such grounds raised by the petitioner were not found tenable.

Accordingly, this writ application succeeds. The orders impugned are quashed and set aside. The matter is remitted back to the Licensing Authority for fresh consideration and passing a reasoned order in accordance with law. Before doing that, the Licensing Authority would be obliged to supply copies of the enquiry report and copies of the written complaints made by the beneficiaries, if any, and grant another opportunity to the petitioner to file her reply. It is expected that the whole exercise would be completed within a period of three months from the date of receipt/ production of a copy of this order.

It is further made clear that this order would not mean automatic resumption of supplies to the petitioner as the same would depend upon the nature of the order which would be finally passed by the Licensing Authority within the aforesaid period.

It is also made clear that till the final decision is taken by the Licensing Authority, there would not be fresh allotment of the concerned P.D.S. shop in view of advertisement contained in Annexure 7.

This writ application stands allowed.

(Dr. Ravi Ranjan, J.)

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