

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5113 of 2015

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Yogendra Prasad @ Yogendra Singh, S/o Late Shyam Lal Prasad, Resident of
Village- Mohammadpur Panchayat Sonama, P.S- Didarganj, District-Patna.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Civil Supply Department, Old Secretariat, Patna
2. The District Magistrate, Patna.
3. The Special Officer, Rationing, Patna.
4. The Marketing Officer, Ward No.-72, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. N. K. Agrawal, Sr. Advocate
Mr. Dhananjaya Nath Tiwari
For the State : Mr. A.K. Keshri, A.A.G. 11,
Mr. Ujjwal Kumar Sinha, A.C. to A.A.G. 11

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 19-01-2016

Heard learned counsel for the petitioner and the State.

Petitioner is aggrieved by the order dated 13.11.2013
(Annexure-4) passed by the respondent no.3, the Special Officer,
Rationing, Patna, by which the licence of the petitioner granted for
running PDS shop has been cancelled as well as the appellate order
dated 12.11.2014 (Annexure-5) passed by respondent no.2, the
District Magistrate, Patna by which he has upheld the order of the

respondent no.3 and has dismissed the appeal.

It is contended on behalf of the petitioner that inquiry was conducted with respect to the two shops and the report was submitted by the team constituted for that purpose. However, the copies of the inquiry report along with the complaints of the beneficiaries were not served upon the petitioner or other PDS dealer who was also covered by the aforesaid inquiry report. In case of such petitioner, namely, Anil Kumar Singh, this Court has already passed the order dated 14.09.2015 in C.W.J.C. No.21474 of 2013 remitting back the matter for fresh consideration after inquiry report having been served upon the petitioner.

Learned counsel appearing for the State has vehemently argued that the petitioner has not been prejudiced by the non-supply of the inquiry report along with the statements made against him by the beneficiary inasmuch as in the reply filed by him, he has tried to cover the issues of the inquiry report.

In my view, such statement is only noted to be rejected inasmuch as it is mandatory upon the Licensing Authority under Clause 7(ii) of the Public Distribution System (Control) Order, 2001 to grant reasonable opportunity to the PDS dealer before cancellation of licence to submit and state his case. Now the question is whether, in the absence of supply of the inquiry report and the written



complaints made by the beneficiary, the proper reply could have been given by anybody and answer has to be in negative. A person may have some idea of the allegation but that would not be sufficient for filing a proper reply. This issue is not *res integra* as this Court in several of its decisions has already held that non-supply of inquiry report along with the copies of the complaints made by the beneficiary against the PDS shop dealer, if have formed basis for passing order of cancellation of the PDS licence, would amount that inadequate opportunity was given to the petitioner.

Accordingly, in my view, the orders impugned cannot be sustained in law and, as such, the impugned order dated 13.11.2013 (Annexure-4) and the appellate order dated 12.11.2014 (Annexure-5) are quashed and set aside. The matter is remitted back to the licensing authority for fresh consideration in accordance with law. However, in view of the fact that the petitioner has already been served with a copy of the counter affidavit appending the concerned inquiry report, he would be required to straight away again file his reply before the Licensing Authority, who should decide afresh within three months from the date of filing of such reply along with a copy of this order. However, it is made clear that this order would not amount to automatic resumption of supplies to him as the same would depend upon the decision which would be

taken by the licensing authority in compliance of the direction
contained in this order.

(Dr. Ravi Ranjan, J)

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