

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9247 of 2016

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Munna Manjhi Son of Chandrika Manjhi, Resident of Village- Sri Rampur, P.S.-
Manjhagarh, District- Gopalganj.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food & Civil Supply, Govt. of Bihar, Patna.
2. The District Magistrate, Gopalganj.
3. The Sub-Divisional Officer, Gopalganj.
4. The Block Supply Officer, Manjha, District- Gopalganj.

.... Respondents

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Appearance :

For the Petitioner : M/s Baxi S.R.P.Sinha, Sr. Advocate and
Lokesh Kumar Singh, Advocate

For the Respondents : Ms. Anuradha Singh, SC 21

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 01-12-2016

Heard parties.

Petitioner is aggrieved by the order dated 12.8.2015 passed by the Sub Divisional Officer-cum-Licensing Officer, Gopalganj, as contained in Annexure 4, by which his P.D.S. Licence No. 76/2007 granted for running a PDS shop has been cancelled. Petitioner's appeal has also been dismissed by the appellate authority vide Annexure 5 dated 15.3.2016. Both the orders have been assailed by filing the present writ application.

Sole question raised on behalf of petitioner is that, before passing of final order of cancellation, copy of inquiry report



which has formed the basis for the issuance of show cause notice and the ground for cancellation of licence, was never supplied to the petitioner, therefore, the petitioner was not in a position to submit a proper reply.

Such allegation made in the writ petition has vaguely been replied in the counter affidavit. The Sub Divisional Officer, Gopalganj is present in person along with the records and it is submitted that it does appear that the report of inquiry was ever served upon the petitioner.

That being the situation, the issue is no longer *res integra* as this Court on several occasions had held that the show cause notice and order based upon the findings of the inquiry, a copy of report of which was never supplied, would be not only in violation of the principle of natural justice but would also violate the mandatory provisions contained in Clause 7(II) of the PDS Control Order, 200. which requires that the licensee should be given reasonable and adequate opportunity before cancellation of his licence by the licensing authority. A reference in this regard is made to a decision of this Court rendered in **Brahmdeo Rai vs. The State of Bihar & ors. [2013(2) PLJR 706]**.

In my considered view, if a copy of the inquiry report or the complaint made by the beneficiaries are not provided or supplied



to the petitioner by the licensing authority then it has to be held that no adequate opportunity was given as he could not have filed a proper reply without perusal of the materials which have been found against him.

Accordingly, this writ application stands allowed. The impugned order as contained in Annexure 4 and 5 are quashed and set aside.

The matter is remitted back to the licensing authority to first supply copy of the inquiry report to the petitioner and copies of the complaints made by the beneficiaries, if any, and, thereafter, grant reasonable opportunity once again to file a reply. Thereafter, the licensing authority would be required to pass fresh order considering the grounds raised by the petitioner in his reply.

It is expected that the entire exercise would be completed within three months from the date of receipt / production of a copy of this order.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.04.2017
Transmission Date	NA

