

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.25467 of 2013

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Md. Ahmad Son Of Late Abdul Rahim Resident Of Village And P.O. Sanhauli,
P.S. Jagdishpur, District - Bhagalpur

.... Petitioner

Versus

1. The State Of Bihar Through The Secretary Food And Consumer Protection
Department, Old Secretariat, Patna
2. The Collector, Bhagalpur, District - Bhagalpur
3. The Licensing Authority - Cum - Sub - Divisional Officer, Sadar, Bhagalpur,
District - Bhagalpur

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate

For the State : Mr. None

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 05-04-2016

Heard learned counsel for the petitioner. No one appears
for the State though a counter affidavit is on record having been filed
on behalf of the respondent no.2.

Petitioner is aggrieved by the order dated
04.04.2011/06.04.2011 passed by the Sub-Divisional Officer, Sadar,
Bhagalpur, as contained in Annexure-1, by which licence no.47/85
granted to him for running PDS shop has been cancelled. Petitioner
also assails the appellate order contained in Annexure 5 passed in
Supply Appeal Case No.91/2012-13 by which the order passed by the
Licensing Authority has been upheld and the appeal has been
dismissed.



Sole ground taken on behalf of the petitioner is that the licence no.47/85 granted for running the PDS shop to the petitioner has been cancelled without granting reasonable opportunity to the petitioner in terms of Clause 7(ii) of the Public Distribution System (Control) Order, 2001 as the order is based upon the inquiry conducted by the District Supply Officer but copy of the same was never served upon the petitioner.

Petitioner has stated in the paragraph no.12 of the writ petition that copy of the inquiry report was never served upon him. In reply, it has been stated in paragraph no.9 of the counter affidavit that petitioner was given ample opportunity to produce evidence regarding rebuttal of allegation but it has not been stated that copy of the inquiry report was served upon the petitioner along with the show cause notice or before taking a final view in the matter. Thus, it has to be understood that the order has been passed without serving any copy of the inquiry report which has formed the basis of cancellation. By now it is well settled that unless copy of such enquiry report, which has formed the basis of cancellation, is given to the licensee along with the show cause notice, it has to be understood that adequate and reasonable opportunity was never given as proper reply could not have been given by the licensee in the absence of the same.

Accordingly, this writ application succeeds. The impugned orders as contained in Annexure 1 and 5 are quashed and set aside. Petitioner is directed to file a fresh reply to the show cause notice as a copy of the inquiry report has already been appended with the counter affidavit as contained in Annexure A/1 and, thereafter, the Licensing Authority would be required to pass a fresh order in accordance with law within a period of two months from the date of receipt/production of a copy of this order along with the reply of the petitioner.

(Dr. Ravi Ranjan, J)

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