

Two grounds have been raised by the petition at the time of hearing. First is that the impugned order has been passed without consideration of the reply to the show cause notice. Second ground is



that before passing the order, the copy of the report of enquiry conducted by the Block Supply Officer which forms the basis of order of cancellation, was never served upon the petitioner. Such statement made in paragraph no.11 has not been specifically answered by the State in its counter affidavit. Thus, it has to be understood that copy of the enquiry report was never served upon the petitioner.

In such a situation, this Court would not have any hesitation in holding that the orders impugned are bad and not sustainable in law. It is well settled that under Clause 7(ii) of the Public Distribution System (Control) Order, 2001 reasonable and adequate opportunity has to be given to the licensee before cancellation of the licence. It has been held on several occasions that if a reply to the show cause notice is filed then reason would have to be assigned as to why such reply has not been found tenable. Thus, the order being apart from in violation of the aforesaid mandatory provision would also be in teeth of the principle of natural justice. A reference is made in this regard to a decision of this Court dated 19.01.2016 rendered in C.W.J.C. No.6825 of 2015. That apart, it has been held that non-supply of the copy of the enquiry report and statement of the charges along with copies of the complaints made by the beneficiaries, if any, would be in violation of principle of natural justice. A reference in this regard is made to a decision of this Court

in **Brahmdeo Rai Vs. the State of Bihar and Others [2013 (2) PLJR 706]**.

Accordingly, this writ application succeeds. The impugned orders as contained in Annexure 1 and 2 are quashed and set aside. The matter is remitted back to the Licensing Authority for taking a fresh decision in accordance with law. However, before coming to a final conclusion, copy of the complaints made by the beneficiaries against the petitioner, if any, as well as copy of the inquiry report should be supplied to the petitioner and fresh opportunity should be given to him for filing effective reply. If such reply is filed then let the same be considered and reasoned order would be passed by the authority within a period of three months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

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