

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1435 of 2014

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Kanti Kumari W/O Suka Lal Singh Resident Of Mohalla- Nagar Parishad, P.S.-
Masaurhi, District- Patna

.... Petitioner

Versus

1. The State Of Bihar Through The Collector, Patna
2. The S.D.O., Masaurhi, Patna
3. The Block Supply Officer, Masaurhi, Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. Vijay Anand and
Sarita Kumari, Advocates

For the State : Mr. Pankaj Kumar Singh, AC to SC 28

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 05-07-2016

Heard learned counsel for the petitioner and the State.

Petitioner assails order dated 26.11.2013 passed by the Sub Divisional Officer – cum – licensing authority, Masaurhi by which her licence no. 88/2007 has been cancelled. A ground was raised on behalf of the petitioner that the show cause notice was never served upon her before passing the order of cancellation whereas the stand of the State is that notice was served upon her but she did not file any reply. On such assertion made on behalf of the petitioner original records were called for which was produced before this Court. There is a slip available in the record which shows that 378/4.11.13 was served upon the petitioner. It is contended that it refers



the show cause notice which has been appended as Annexure 1. However, at the same time it appears from the impugned order that three inquiries were conducted. First one was on 3.8.2013 by the Block Agricultural Officer, Masaurhi. Again an inquiry was conducted jointly by Block Extension Officer, Dhanarua and Nagar Prabandhak, Nagar Parishad, Masaurhi, who had submitted report on 1.10.2013, thereafter, again on the oral direction of the licensing authority, the Block Agricultural Officer, Dhanarua and the Touring Medical Officer, Masaurhi made an inquiry on 26.10.2013. All of them have been considered for cancellation of licence of the petitioner. However, it does not appear from the record that any of the inquiry report was ever served upon the petitioner.

The provisions contained in Clause 7(ii) of the PDS Control Order, 2001 mandates the licensing authority to grant reasonable opportunity to the petitioner before proceeding to cancel his licence. It has been held on several occasions by this Court that unless a copy of inquiry report is supplied to the petitioner that it would not amount that adequate opportunity was given to licensee for filing the reply and as such the non supply of copy of inquiry report and the charges made by the beneficiaries, if any, would be in violation of principle of natural justice and in their absence, proper reply cannot be filed.

Thus, in my view the proceeding suffers from the aforesaid fatal flaw and as such the impugned order cannot be sustained in law.

Accordingly, this writ application stands allowed. The order impugned is quashed and set aside. Let a copy of the show cause notice along with the inquiry reports as well as the copies of the complaints of the beneficiaries, if any, be served upon the petitioner and reasonable time be given to her to file reply. After considering the grounds raised in her reply, the licensing authority would be required to pass final order which should be reasoned and speaking one. 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/-

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