

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11120 of 2015

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Md. Murtuza Khan, son of Late Hazi Samsuddin Khan, resident of village - Dhaka
Ramchandra, P.S. - Dhaka, District - East Champaran.

.... Petitioner

Versus

1. The State of Bihar.
2. District Manager, East Champaran, Motihari.
3. S.D.O. Sikerhana at Motihari, East Champaran.
4. Block Supply Officer, Dhaka, East Champaran.

.... Respondents

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Appearance :

For the Petitioner : Mr. Binod Kumar Mishra, Advocate
For the State : Mr. Prashant Kumar, A.C. to G.P. 8

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 29-03-2016

Heard learned counsel for the petitioner and the State.

Petitioner is aggrieved by the order dated 10.06.2015,
as contained in Annexure 4, passed by the Sub-Divisional Officer,
Sikerhana, Motihari, East Champaran by which his licence
no.92/2007-08 granted for running the PDS shop has been cancelled.

It is contended on behalf of the petitioner that neither
any inquiry report nor any complaints of the beneficiaries was given
to the petitioner so that a proper reply could have been given. On
such contention raised by the petitioner, learned counsel for the State
was directed to produce the entire records of the concerned case. It



appears from the records that on 19.05.2015 the Block Supply Officer, Dhaka had written to the Sub-Divisional Officer, Sikerhana stating that certain beneficiaries have stated regarding irregularities having committed by the petitioner. The complaints of the beneficiaries are available on record, however, neither copy of such letter nor complaints made by the beneficiaries appears to have been served upon the petitioner either along with the show cause notice or before taking a final decision in the matter. That apart, there are certain affidavits also on record filed by the beneficiaries in favour of the petitioner which also does not appear to have been considered by the Sub-Divisional Officer, Sikerhana.

By now it is well settled that under Clause 7(ii) of the Public Distribution System (Control) Order, 2001, licensee has to be given reasonable opportunity to make out his case before taking steps of cancellation of licence, thus, unless the copies of the inquiry report and the complaints of the beneficiaries are given to the licensee, it would not be possible for him to file a proper reply to the show cause notice.

Accordingly, it is held that in the absence of supply of the copies of the complaints by the beneficiaries, this proceeding cannot be sustained in law and, as such, the impugned order is quashed and set aside. The matter is remitted back to the Licensing

Authority who will serve copies of the complaints of the beneficiaries and the inquiry report, if any, and, thereafter, grant another opportunity to the petitioner to file a reply to the show cause notice and after consideration of that a final decision should be taken by him.

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

This is further made clear that this order would not mean automatic resumption of supplies to the petitioner as the same would depend upon the final order which would be passed by the licensing authority. However, this is further made clear that the Licensing Authority would be required to consider every material available on record including the affidavits filed by the beneficiaries in favour of the petitioner before coming to a final conclusion.

This disposes of the writ petition.

(Dr. Ravi Ranjan, J)

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