

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19904 of 2013

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Ram Shresth Mahto, Son Of Late Sunder Mahto, Resident of Village- Makunahiya,
P.S. Sursand, District- Sitamarhi

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Secretary, Department of Food and Civil Supplies, Government of Bihar,
Patna
3. The District Magistrate, Sitamarhi, District- Sitamarhi
4. The Senior Deputy Collector, Sitamarhi District- Sitamarhi
5. The Sub-Divisional Officer, Pupri, District- Sitamarhi
6. The Block Supply Officer, Sursand, District- Sitamarhi

.... Respondents

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Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Advocate
Mr. Pushpendra Kumar Singh, Advocate
Mr. D. N. Tiwari, Advocate

For the Respondent/s : Mrs. Bandana Singh, AC to SC-25.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 19-04-2016

Heard learned counsel for the petitioner and the State.

The petitioner seeks quashing of the order dated 13.06.2013 passed by the Sub-Divisional Officer-cum-licensing authority, Pupri, as contained in Annexure-3, by which his licence no.27/1997 granted for running a P.D.S. shop has been cancelled.

The sole ground being raised on behalf of the petitioner is that the order of cancellation of licence is based upon enquiry report of Additional Collector, Sitamarhi but a copy of that was never served upon the petitioner. A copy of the report has been

appended as Annexure-B to the counter affidavit but it has not been stated that the same was served upon the petitioner before taking a final decision.

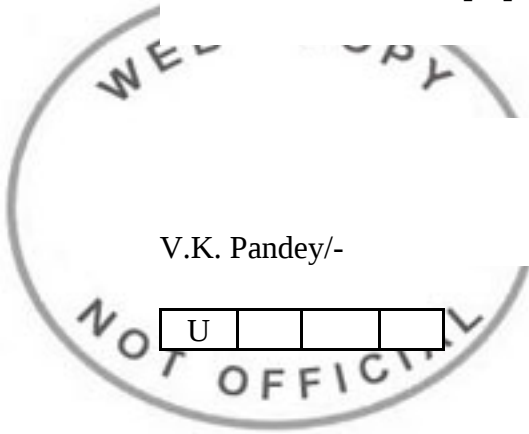
In my view, this writ application has to succeed on the aforesaid sole ground as it is well settled that if an order of cancellation is based upon the enquiry report and a copy of that was not served upon the licensee before taking a final decision then it cannot be held that reasonable and adequate opportunity was given to the licensee for making out of his case. A reference is made in this regard to a decision of this Court rendered in ***Brahmdeo Rai Vs. The State of Bihar and Ors. [2013 (2) PLJR 706]***.

Accordingly, this writ application succeeds. The impugned order as contained in Annexure-3 is quashed and set aside.

However, the matter is remitted back to the licensing authority for fresh consideration in accordance with law. He would supply a copy of the inquiry report and grant another opportunity to the petitioner to file a reply to the show cause notice and upon consideration of grounds raised by him and the materials available on record, a fresh and reasoned order would be required to be passed by him.

It is expected that the whole exercise would be

completed within a period of two months from the date of receipt/production of a copy of this order.



(Dr. Ravi Ranjan, J)