

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11921 of 2014

=====

Md. Mustaffa, S/o Masleuddin, Resident of Village- Chakai, Panchayat-
Chakai, P.S.- Jokihat, District- Araria

.... Petitioner

Versus

1. The State of Bihar through the Collector, Araria
2. The Collector, Araria
3. The Sub Divisional Officer, Araria
4. The Block Supply Officer, Jokihat, Araria

.... Respondent/s

=====

Appearance :

For the Petitioner : Mr. N.K. Agarwal, Sr. Advocate
: Mr. Dhananjay Nath Tiwary, Advocate
: Mr. Vijay Anand, Advocate
For the Respondent/s : Mr. Sanjeev Kr. Singh AC to SC 12

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

3 02-02-2016

Heard the parties.

The petitioner is aggrieved by Annexure 4 which is an order dated 05.09.2013 passed by the Sub- Divisional Officer-cum-Licensing Authority by which his P.D.S. licence no. 79J/07 has been cancelled. He also challenges the order passed by the appellate authority dated 03.01.2014 in Appeal No. 3 of 2006-07 (Annexure 2) as well as in Appeal No. 16/2013-14 (Annexure 1).

The petitioner's licence was earlier cancelled in the year 2006 which was assailed by filing Appeal No. 3/2006-07 which was under consideration and the order of cancellation was kept in abeyance. However, during its pendency, the petitioner's licence was suspended on 2.11.2008. Thereafter, again a show-cause notice for proposed cancellation of licence was issued vide Annexure-6 dated

29.08.2013 and eventually it was cancelled vide Annexure 4. Appeal No. 16/2013-14 was preferred against the aforesaid order and was dismissed vide Annexure – 1.

Sole ground raised on behalf of the petitioner is that it is apparent from Annexure 6, i.e., show-cause notice as well as impugned order, as contained in Annexure 4, that the same is based on complaints of about 51 persons upon which some enquiry was made by the Block Supply Officer, Jokihat Araria and a report was submitted vide letter no. 171 dated 27.08.2013. But neither the copies of the complaints filed by the aforesaid persons were supplied to the petitioner nor was a copy of enquiry report ever served upon him. Though there is denial of such allegation in counter affidavit but no positive statement giving reference of dates etc. along with evidence is there showing that the copies of the enquiry reports or the complaints were served upon the petitioner before taking a decision. It is also apparent that the aforesaid complaints as well as enquiry report form basis of charges levelled and decision taken by the Sub-Divisional Officer upon the aforesaid charge vide Annexure-4. It is well settled that unless the copies of enquiry report or the complaints made by the beneficiaries are provided to the licensee, it cannot be held that reasonable or adequate opportunity was given for answering the charges or for stating his case in terms of Clause 7 (II) of the P.D.S. (Control) Order, 2001. One of such orders has been appended as Annexure 8 passed in C.W.J.C. no. 6388 of 2013.

Accordingly, this writ application succeeds on the aforesaid sole ground. All the impugned orders are quashed and set aside. However, the matter is remitted back to the Licensing Authority for issuing fresh show-cause notice and grant fresh opportunity to the petitioner for answering the same. Thereafter, a decision in accordance with law would be required to be taken by the Licensing Authority considering the grounds raised by the petitioner. It is expected that the whole exercise would be completed within a period of three months from the date of receipt/ production of a copy of this order. This order would not mean automatic resumption of supplies to the petitioner as the same would depend upon the nature of order that would be passed by the Licensing Authority.

(Dr. Ravi Ranjan, J.)

rinkee/-

U			
---	--	--	--