

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18302 of 2015

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Surendra Singh, son of Late Ram Punit Singh, resident of village & P.O. Jhitak,
P.S.- Kudhani, District- Muzaffarpur, P.D.S. Dealer Panchayat Kinaru Block
Kudhani, District- Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar
2. Deputy Director, (Joint Director), Food & Consumer Protection, Tirhut Division,
Muzaffarpur
3. The Collector, Muzaffarpur
4. District Supply Officer, Muzaffarpur
5. The Sub-Divisional Magistrate, West Muzaffarpur
6. Marketing Officer, Kudhani, Marwan and Sahebganj

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Sanjay Kumar, Mr. Prabhat Kumar Singh, Advocates
For the State	:	Mr. Madanjeet Kumar, G.P. 20

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-12-2016

I have heard the parties and perused the original record
which has been produced today by learned counsel for the State.

Petitioner seeks quashing of the order dated 10.09.2015
passed by the Sub-Divisional Officer, West Muzaffarpur by which his
licence no.23150029/08 has been cancelled.

It appears that on the complaint made in the Janta Darbar
of the District Magistrate, the Block Supply Officer conducted an
enquiry against the petitioner and submitted his report. Petitioner filed
his reply thereof. Thereafter, again a Three Man Enquiry Committee



was set up by the Sub-Divisional Officer directing the Block Supply Officer, Sahebganj, Madwan and Kudharni to make joint enquiry. The enquiry was conducted. The report was submitted and, thereafter, petitioner's licence has been cancelled.

It is submitted that copy of the second enquiry report was never supplied to the petitioner. No show cause notice was issued after the aforesaid enquiry and no reasonable and adequate opportunity was given to the petitioner to defend his case after the aforesaid inquiry was conducted on 20.08.2015. It is further contended that, so far earlier enquiry is concerned, petitioner had submitted his reply to the show cause notice vide Annexure 10 and had also stated that the persons who appear to have made complaint against the petitioner had given in writing that they do not have any grievance against the petitioner. Since the petitioner claims that copy of the report of second enquiry conducted by the three officers was never supplied to him whereas the order impugned says that petitioner's replies to both the inquiry reports were not found tenable, it necessitated this Court to call for the original record to ascertain as to whether copy of the subsequent inquiry report held on 20.08.2015 was ever given to the petitioner or not and whether the petitioner had filed any reply thereof or not. Original records have been produced. Copy of the inquiry report is there. However, learned counsel for the



State has not been able to show from the record that after the inquiry jointly conducted by three persons on 20.08.2015, copy of the same was ever given to the petitioner and petitioner had, thereafter, filed any reply thereof.

That apart, the Licensing Authority has also referred a letter dated 03.09.2015 issued by the Deputy Director, (Joint Secretary), Food & Consumer Protection, Tirhut Division, Muzaffarpur. From perusal of the aforesaid letter, it appears that the Deputy Director had directed the Sub-Divisional Officer to take a disciplinary action against the petitioner on the basis of the inquiry report.

In my view, this further is a fatal error in the proceeding. The superior authority may have directed the Sub-Divisional Officer to conclude the proceeding within a short period but no positive direction could have been given to him by the superior authority for doing a thing in a particular manner. The Licensing Authority being the creature of the statute is required to apply its own mind and take its own decision. He is not required to act on the dictate or guidance of the superiors.

Accordingly, in my view, since the order impugned suffers from aforesaid fatal flaws, the same cannot survive and, as such, the impugned order, as contained in Annexure 1, is quashed and set



aside. The matter is remitted back to the Licensing Authority for taking a fresh decision. He will supply copy of the second inquiry report and, thereafter, seek further response of the petitioner within a reasonable period and if such response is given he would proceed to decide the matter on its own merit and in accordance with law without being prejudiced by command of any superior officer. He is expected to pass a reasoned order answering the grounds which may be raised by the petitioner by filing his reply. 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 writ application stands allowed.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.01.2017
Transmission Date	NA

