

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 2170 of 2016

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Rajdeo Manjhi, Son of Chandi Manjhi, Resident of Village Nipaniya,
P.S. Isuapur, District Saran.

.... Petitioner.

Versus

1. The State of Bihar through the Principal Secretary, Department of Food Supply & Consumer Protection, Patna.
2. The Commissioner, Saran Division, Chapra.
3. The Collector-cum-District- Magistrate, Saran at Chapra.
4. The Sub- Divisional Officer, Marhowrah, Saran.
5. The Block Supply Officer, Taraiya, Saran.
6. The Bock Supply Officer, Isuapur, Saran.

.... Respondents.

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Appearance :

For the Petitioner : Mr. Sanjay Kumar Singh, Adv.

For the Respondents: Mr. Niraj Kumar, AC to GA 10

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 14-12-2016

Heard learned counsel for the petitioner and the State.

Petitioner assails Annexure-3, which is an order dated 05.03.2011 passed by the Sub-divisional Officer-cum-Licensing Authority, Marhowrah, Saran at Chapra by which he has cancelled his PDS Licence No. 68/07, Annexure-4, the order dated 21.11.2013 passed by the District Magistrate-cum-Collector, Saran at Chapra in Supply Appeal No. 50 of 2011 and the revisional order dated 24.09.2015, Annexure-5, passed by the Commissioner, Saran Division, Chapra in Supply Revision No.



30/2014 by which he has dismissed the revision and upheld the appellate order as well as the order passed by the licensing authority.

Learned counsel for the petitioner raises two grounds. First is that the show cause notice is vague as it does not appear to have been issued in a proceeding for cancellation of licence. He next submits that copies of the inquiry report along with show cause notice as well as complaints made by the beneficiaries against the petitioner were not supplied to him. Categorical submission has been made in this regard in paragraph 14 which has not been denied by the respondent authorities.

In my considered view, the issues are no longer *res integra*, as such, the writ application succeeds on both counts. On perusal of Annexure-1, which is an order dated 01.02.2011, it does not appear to have been issued in a proceeding for cancellation of licence and is vague as it is stated in the notice that proper action would be taken under PDS (Control) Order, 2001, Indian Penal Code and Cr.P.C. as well as Essential Commodities Act. This Court on several occasions has held that if the notice is vague and has not been issued specifically for cancellation of licence, then it cannot be held that there is



compliance of the provision contained in Clause 7(ii) of the PDS (Control) Order, 2001 which mandatorily requires that the licensee, before passing an order of cancellation of licence, has to be given an opportunity to make out his case in a proceeding for proposed cancellation of licence. In its absence, it cannot be held to be a valid notice.

Similarly, in reply to the petitioner's assertion that the copy of the inquiry/inspection report was never given to him, the learned counsel for the State has not been able to point out for counter affidavit or the records that the same was supplied. Annexure-1, which is a copy of the show cause notice also does not show that any inquiry report was appended with it. Thus, it has to be understood that a copy of the inquiry report as well as the complaints of the beneficiaries made against the petitioner were never supplied to him.

This issue also is no longer *res integra* as it has been decided on several occasions by this Court. A reference in this regard is made to a decision of a Co-ordinate Bench of this Court rendered in the case of **Parsauni Khirodhar Primary Agriculture Co-operative Society Limited vs. State of Bihar through the Collector, Sitamarhi** [2015(3) PLJR 189] and **Raghubir Prasad vs. The State of Bihar through Director of**



Food, Supply and Consumer Protection and Ors. [2015(2) PLJR 910] holding that non-supply of inquiry report conducted by the Sub-divisional Level Committee as well as complaint of beneficiaries would amount that no adequate opportunity was given to the petitioner as no purpose would be served for filing reply.

In the aforesaid background of the matter, this writ petition is allowed and the impugned orders as contained in Annexure-3, 4 and 5 are quashed and set aside. Petitioner’s licence is restored.

However, it is made clear that the Licensing Authority, if it so desires, would be at liberty to initiate a fresh proceeding in accordance with law.

(Dr. Ravi Ranjan, J.)

Vikash/-

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

