IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1996 of 2015

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Ramsheela Devi W/o Sri Arjun Choudhary Resident of Village- Shiela, P.S. - Fatehpur, District- Gaya.

.... Petitioner/s

Versus

1. State of Bihar through the Secretary, Consumer Protection Department , Government of Bihar, Old Secretariat , Patna.
2. The District Magistrate , Gaya
3. The Sub Divisional Officer , Sadar, Gaya.
4. The Block Supply Officer, Block - Tunkuppa, Distict- Gaya.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 3376 of 2015

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Mosafir Yadav @ Mosafir Prasad Yadav. Son of Sanichar Prasad Yadav. Resident of village - Akal Bigha, Panchayat Bahasha Pipara, Police Station - Fatehpur, District - Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Food and Consumers Protection, Government of Bihar, Patna.
2. The District Magistrate/Collector, Gaya.
3. The Sub-Divisional Officer, Sadar Gaya, District - Gaya.
4. The Block Supply Officer, Tankuppa, Dist.- Gaya.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 3594 of 2015

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Umesh Prasad Singh @ Umesh Singh S/o Late Devendra Prasad Singh, Resident of Village- Bathnaha, P.S.- Bathnaha, District- Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Food & Civil Supply Department, Govt. of Bihar, Patna
2. The Sub Divisional Officer, Sitamarhi
3. The Block Supply Officer, Belsand

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 2211 of 2016

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Dayanand Yadav Son of Late Achitlal Yadav Resident of Village - Parwatta, Post - Haldhara Hat, P.S. - Kursakanta, District - Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector, Araria, District - Araria.
3. The Licensing Authority-Cum-Sub Divisional Officer, Araria, District - Araria.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4197 of 2016

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Ajit Kumar Son of Late Arjun Poddar, Resident of Village and Post Rajaura, P.S. - Sadar, District - Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector, Begusarai, District - Begusarai.
3. The Sub Divisional Officer, Begusarai, District - Begusarai.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 5370 of 2016

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Sachidanand Singh, S/o Late Bisundeo Singh, Resident of Village- Laukariya, P.S- Palanwa, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, East Champaran.
2. The Collector, East Champaran.
3. The Sub Divisional Officer, Raxaul, East Champaran.
4. The Block Supply Officer, Raxaul, East Champaran.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 11914 of 2016

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Umesh Yadav Son of Late Ramphal Yadav Resident of Village - Kaligarhi, P.O. -

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Laxmipur, P.S. - Katori, District - Banka.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Banka, District - Banka.
3. The Sub-Divisional Officer, Banka, District - Banka.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 18953 of 2016

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Haidar Ali, S/o Md. Islam, Resident of Village- Chhabilapur, Ward No.2, P.S.- Mansurchak, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Begusarai.
3. The Sub-Divisional Magistrate, Teghra, Begusarai.
4. THe District Supply Office, Begusarai.
5. The Block Supply Officer, Block- Mansurchak.
6. The Block Development Officer, Mansurchak, District- Begusarai.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 19057 of 2016

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Smt. Geeta Kumari, W/o Naveen Kumar Ram, Resident of Village- Chamtha Gop Tol, P.S.- Bachhwara, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Begusarai.
3. The Sub-Divisional Magistrate, Teghra, Begusarai. null null
4. The District Supply Office, Begusarai. null null
5. The Block Supply Officer, Block- Bachchwara
6. The Block Development Officer, Bachchweara, District- Begusarai.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 191 of 2017

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Jholi Ram Son of late Gulten Ram Resident of Village Partapur, Ward No. 08, P.O. & P.S. Jhanjharpur, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum Commissioner, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Madhubani.
3. The Sub-Divisional Officer-cum-licensing Authority, Jhanjharpur, District Madhubani.
4. The Block Supply Officer, Jhanjhapur.

.... Respondent/s

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Appearance :
(In CWJC No.1996 of 2015)
For the Petitioner/s : Mr. Anujit Sinha
For the Respondent/s : Mr. Sarvesh Kr. Singh, AAG-13
(In CWJC No.3376 of 2015)
For the Petitioner/s : Mr. Binay Kumar
For the Respondent/s : Mr. Harish Kumar, GP-32
(In CWJC No.3594 of 2015)
For the Petitioner/s : Mr. Anujit Sinha
For the Respondent/s : Mr. Jitendra Kumar, AC to AAG-14
(In CWJC No.2211 of 2016)
For the Petitioner/s : Mr. Rajeev Kumar Labh
For the Respondent/s : Mr. Rishi Raj Sinha, SC-15
(In CWJC No.4197 of 2016)
For the Petitioner/s : Mr. Rajeev Kumar Labh
For the Respondent/s : Mr. Anil Kumar Sinha, GA9
(In CWJC No.5370 of 2016)
For the Petitioner/s : Mr. Anujit Sinha, Adv.
For the Respondent/s : Mr. Kinkar Kumar, SC27
(In CWJC No.11914 of 2016)
For the Petitioner/s : Mr. Rajeev Kumar Labh
For the Respondent/s : Mr. Indeshwari Pd. Mandal, AC to GA-3
(In CWJC No.18953 of 2016)
For the Petitioner/s : Mr. Prem Prakash Poddar
For the Respondent/s : Mr. S. Raza Ahmad- AAG5
(In CWJC No.19057 of 2016)
For the Petitioner/s : Mr. Prem Prakash Poddar
For the Respondent/s : Mr. S. Raza Ahmad- AAG5
(In CWJC No.191 of 2017)
For the Petitioner/s : Mr. Arjun Kumar
For the Respondent/s : Mr. Alok Ranjan, AC to GA-6

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 07-03-2017

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Heard learned counsel for the petitioners and counsel for the State in all the cases.

In all the cases, as same issue is involved, the same are disposed of by this common order For convenience the fact of CWJC No. 1996 of 2015 is taken into consideration. The short fact of this case is that the petitioner is a PDS Licence Holder bearing License No. 7 of 1993, use to lift the food grains and distribute the same to the respective consumer at the rate fixed by the Government in proper quantity and quality. An inspection was made by the Executive Officer of the shop of the petitioner and has found certain irregularities which are as follows:-

(i) The K.Oil distributed to the consumer in gap of three or four months by the petitioner.

(ii) The K. Oil supplied less quantity from fixed quantities and also charge higher price @ 13/- per ltrs. from the consumer by the petitioner.

(iii) The petitioner has not informed the consumer for distribution of K.Oil.

(iv) The food grain not supplied on yellow coupon fro the month of October 2007 to rate of inspection i.e. 31.12.2007 to the consumer.

The petitioner filed show-cause and submitted that he

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has lifted the K. Oil and the food grains and supplied the same at the rate fixed by the State Government to the proper consumer. The S.D.O., Sadar, Gaya has passed the impugned order dated 20.3.2008 without considering the reply of the petitioner. The petitioner challenged the order dated 20.3.2008 passed by the Sub Divisional Officer, Gaya before this Court in CWJC No. 4412 of 2013 which was allowed to be withdrawn with a liberty to the petitioner to file an appeal. Accordingly, the petitioner filed an appeal before the Collector, Gaya. As per claim of the petitioner, the Collector, Gaya, without applying his judicial mind, has rejected the appeal of the petitioner.

The main thrust of argument of the petitioner is that the S.D.O., Sadar, Gaya, while issuing the notice of show-cause, has not furnished the enquiry report submitted by the Executive Officer and, thereby, has deprived proper opportunity of hearing which violates the principle of natural justice to the petitioner. He has further submitted when a punitive order is to be imposed on any person, it must be based on enquiry report, in such circumstances, the person, who passed the order, should have furnished the same to enable him to give proper reply, as any adverse order will have civil consequences upon the petitioner. Learned counsel for the petitioner has placed reliance on the judgment of this Court in the case of ***Krishna Kumar***

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Srivastava Vs. The State of Bihar & Ors. reported in ***2013(3) PLJR 249*** wherein in an identical situation the Court has recorded that when an action entails civil consequences upon a party, in such circumstances, the show-cause notice must include the copy of the enquiry report so that the person concerned can give reply effectively in the matter. It will be relevant to quote paragraph no.3 of the aforesaid judgment which reads as follows:-

> *"3. Be that as it may, since notice itself is vague and does not contain requisite details, the order passed on the basis of the same has to be held as illegal. Accordingly, impugned order of the Sub-Divisional Officer, Sadar Ara dated 13.7.2012, as contained in Annexure-1, is quashed. He is granted liberty to issue fresh notice to the petitioner giving the particulars of the allegations enclosing supporting documents to enable the petitioner to file a proper reply within a reasonable time. Thereafter, he will pass fresh orders in the matter after considering the reply, if filed by the petitioner within the time fixed, in accordance with law."*

Admittedly in all the cases, the S.D.O., Sadar, Gaya, while issuing the show-cause notice, has not furnished the enquiry report submitted by the Executive Officer.

This Court, instead of going into the merit of the case, remands the matter to the S.D.O., Gaya who will furnish the copy of enquiry report to the parties and after giving due opportunity of

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hearing will take decision in accordance with law.

In the result, the order passed by the S.D.O., Sadar, Gaya and the Collector, Gaya are set aside.

As the present order is being passed on technical ground, it will not be treated that the licences of the petitioners have revived which will be dependent on the outcome of orders passed by the competent authorities.

Thus, all the cases are remanded back to the respective S.D.Os. for fresh consideration. All the S.D.Os. will dispose of the matters within a period of four months from the date of receipt/production of a copy of this order.

With the aforementioned observation and direction, all these writ applications are disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.03.2017
Transmission Date	

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