

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15006 of 2015

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1. Arjun Sao, Son of Prasadi Sao, resident of Village+Post Nagwa, P.S.- Fatehpur,
Block- Fatehpur, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Food and Civil Supply Department Old Secretariat, Patna.
2. The Secretary Department Food and Civil Supply Department, Govt. of Bihar, Old Secretariat, Patna.
3. The District Magistrate, Gaya.
4. The Sub Divisional Officer, Sadar, Gaya.
5. The District Supply Officer, Gaya.
6. The Block Supply Officer, Fatehpur, District- Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nagendra Kumar Singh

For the Respondent/s : Mr. Vivek Anand Amritesh, AC to SC-28

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 09-10-2017

Heard learned counsel for the petitioner and learned
counsel for the State.

In this case, the petitioner is challenging the order dated
30.04.2015 (Annexure-6) passed by the appellate authority, i.e.
District Magistrate, Gaya in Appeal No. 40/2013, whereby and
whereunder he has affirmed the order dated 20.06.2012 (Annexure-3)
passed by the S.D.O., Sadar, Gaya, whereby he has cancelled License
No. 45/2007 of the petitioner.

In the present case, the petitioner is a license holder of
License No. 45/2007 for running the PDS shop. An inspection was
conducted on 11.02.2012 by the District Supply Officer, Gaya and the



Block Supply Officer, Fatehpur, Gaya and thereby found four irregularities. First, during the working hour the shop was found closed; second, 13 beneficiaries have raised grievance that they were deprived from supply of kerosene oil; third, is that the BPL beneficiaries have complained that they were not supplied the food grains and fourth charge is that though the petitioner had lifted 1394.25 litres kerosene oil in January, 2012, but he had not distributed the same.

The petitioner had filed his show cause before the S.D.O., Sadar, Gaya and upon consideration the S.D.O. had passed order dated 20.06.2012, by which the license of the petitioner was cancelled. Earlier, the petitioner had moved before this Court in C.W.J.C. No. 21686/2012 and thereby challenged the order of S.D.O. The Court directed the petitioner to file an appeal. In appeal, filed by the petitioner, took several grounds for non-supply of the report of District Supply Officer along with the Block Supply Officer making prayer to restore his license.

The appellate authority finally decided the appeal vide order dated 30.04.2015 mentioning the charges levelled against the petitioner and passed order and thereby rejected the plea of the petitioner.

The question has been raised by the petitioner is that the



authority has committed errors in passing the order, inasmuch as the Collector while passing the order has not at all taken into consideration the facts and rejected the plea of the petitioner.

The State has tried to justify the order of the District Magistrate, who has approved the order of the S.D.O. Learned counsel for the petitioner has submitted that the proceeding was initiated on the basis of the report of the District Supply Officer and the Block Supply Officer, which was not served upon the petitioner nor the petitioner got privilege to go through the report.

Having considered the rival contention of the parties, it is not in dispute that the petitioner was not supplied the copy of enquiry report before initiation of the proceeding against the petitioner and also the appellate authority has failed to take into consideration the grounds, which the petitioner raised in the appeal in law. In such circumstances, the order of the S.D.O., Sadar, Gaya dated 20.06.2012 (Annexure-3) as well as the order of the appellate authority dated 30.04.2015 (Annexure-6) are set aside.

The matter is remitted back to the S.D.O., Sadar, Gaya, who will supply the copy of the enquiry report and will decide the case on his own level.

The petitioner is directed to remain present along with this present order before the S.D.O., Sadar, Gaya on 6th of November,



2017. The S.D.O., Sadar, Gaya will decide the case within a period of four weeks on its merit.

(Shivaji Pandey, J)

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CAV DATE	N.A.
Uploading Date	17.10.2017
Transmission Date	

