

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5137 of 2015

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Md. Musa, Chairman, Maubehat Primary Agriculture Co-Operative Society Ltd.,
Son of Late Md. Hakim, Resident of Village- Tariyanti, Post- Bajitpur, P.S.-
Manigachhi, District- Darbhanga.

.... Petitioner/s

Versus

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

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh

For the Respondent/s : Mr. Amish Kumar, AC to AAG 8

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 13-01-2017

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of Annexure 1 dated 8.9.2014
by which the Sub Divisional Officer – cum – licensing authority,
Sadar, Darbhanga has cancelled the PDS licence no. 2/11 of the
petitioner.

Sole ground raised by the petitioner at the time of hearing
is that the show cause as well as impugned order is based on the
certain enquiry conducted on 14.8.2014 and, thereafter, again on
2.9.2014, in which certain irregularities were found, however, copies
of the enquiry reports were never served upon the petitioner along



with the show cause notice to enable him to make out his case.

A supplementary counter affidavit is filed today. It is fairly admitted by the State that the copy of inquiry report was never supplied to the petitioner.

The issue is no longer *res integra* as this Court on several occasions has held that if the show cause notice and the impugned order are based upon the inquiry report a copy of which was not served upon the licensee along with the show cause notice then it would mean that adequate opportunity was never given to the petitioner to make out his case as it would be impossible for him to give a just and proper reply to the show cause notice in absence of the same. A reference in this regard is made to a decision of this Court rendered in **Brahmdeo Rai Vs. the State of Bihar and Others [2013 (2) PLJR 706]** holding that in such a situation the order is bad and in violation of the principle of natural justice.

Accordingly, this writ application succeeds. The impugned order dated 8.9.2014, as contained in Annexure-1, is quashed and set aside.

The matter is remitted back to the licensing authority to first supply copy of the inquiry report to him and copies of the complaints made by the beneficiaries, if any, and, thereafter, grant reasonable opportunity to the petitioner once again to file a reply.



Thereafter, the licensing authority would be required to pass fresh order considering the grounds raised by the petitioner in 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.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
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