

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4530 of 2016

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Sharda Devi Wife of Late Shivnandan Prasad Yadav Resident of village -
Bhawanpur, P.S. Govindpur, District - Nawada

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Food and Civil Supply, Government of Bihar, Patna
3. The District Magistrate, Nawada
4. The Sub - Divisional officer, Rajauli, Nawada
5. The Block Supply officer, Block - Govindpur, Rajauli, Nawada

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Chandra, Adv.

For the Respondent/s : Mr. Sunil Kumar – AC to GP11

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 08-05-2017

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

In this case, the petitioner is challenging the order of
appellate authority dated 09.02.2016 passed in Appeal Case No.
213(M)/2013, whereby and whereunder, the appellate authority has
affirmed the order dated 07.01.2013 passed by the licensing authority.

It appears that on the complaint of Ramdeo Yadav and
other villagers, the petitioner was served with show-cause with three
charges. The first charge is not distributing the Kerosene Oil, using
the abusive language to the consumer, giving the Kerosene Oil in the
gap of two to three months. Later, by another letter dated 08.10.2012,



five charges were added, explanation was submitted by the petitioner, during enquiry by the Sub-Divisional Officer, Rajauli, Nawada, again the matter was sent to the Block Supply Officer, Govindpur for the report, who submitted the report and, on that basis, the order of cancellation has been passed. The appellate authority has narrated five charges, but he has passed the order on the charge which is not the subject matter for consideration.

The counsel for the petitioner submits that on two occasions the enquiry was conducted, but the petitioner having been not given any report. The appellate authority has passed the order on the ground that the petitioner has been charging higher rate of Kerosene Oil whereas, this charge has not been mentioned in any of the five charges leveled by the Sub-Divisional Officer, Govindpur.

The counsel for the State has fairly accepted that the enquiry reports have not been served upon the petitioner. In such view of the matter, the basis for initiation of the proceeding and the passing of the order has not been served on the petitioner and the appellate authority has passed the order in different charges other than mentioned in the show-cause.

Accordingly, the aforesaid orders dated 09.02.2016 and 07.01.2013 are set aside. The matter is remitted back to the licensing authority Sub-Divisional Officer, Rajauli, Nawada who will serve a



copy of both the enquiry reports, and after giving fair hearing, will pass order in accordance with law within four months from the receipt/production of a copy of this order.

With the aforesaid observation and direction, this petition is disposed of.

(Shivaji Pandey, J.)

Vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.05.2017
Transmission Date	NA

