

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9425 of 2014

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Raj Kumar Ram, S/o Late Shankar Dayal Ram, Resident of Village- Satuhari,
Divan Ka Barka Gaon, P.S.- Sikraulia, District- Buxar

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-cum-District Collector, Dumraon, Buxar
3. The Sub-Divisional Officer, Navanagar, Dumraon, Buxar
4. The Block Development Officer, Dumraon, Buxar
5. The Circle Officer-cum-Block Supply Officer, Navanagar, Buxar

.... Respondent/s

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Appearance :

For the Petitioner	:	Mrs. Mira Kumari, Advocate
For the Respondent	:	Mr. Nagendra Pd. Yadav, S.C.-23
		Mrs. Vijaya Laxmi Srivastava, A.C. to S.C.-23

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

Date: 11-05-2017

Heard learned counsel for the petitioner and the learned
counsel appearing on behalf of the State.

2. The petitioner seeks issuance of a writ in the nature of *certiorari* for quashing the order dated 20.12.2013, bearing Memo No.1261, passed by the Sub-Divisional Officer, Dumraon, Navanagar, Buxar, as contained in Annexure-5, by which the licence granted to him under Public Distribution System (PDS), bearing Licence No.452/2010, has been cancelled.

3. Learned counsel for the petitioner submits that the impugned order, as contained in Annexure 5, is wholly illegal and arbitrary as the two show cause notices issued to him, vide Letter



No.373 dated 5.6.2013 (Annexure 1) and Letter No.478 dated 8.7.2013 (Annexure 2), did not contain the exact complaint as referred to in the allegations of the complainant, Bhrigunath Rajak. It is further submitted that the petitioner was called upon to answer such allegations without being served any details about the allegations made by the respective beneficiaries of the *Antyodaya* Scheme.

4. Learned counsel for the petitioner has also drawn the attention of this Court to the second show cause notice, which is for a totally different cause for not depositing the pay-in-slips for the months of November, 2012 and February, 2013 to May, 2013. Learned counsel for the petitioner, thus, submits that the respondents have acted in altogether arbitrary manner as the show cause notice filed by him in response to the said notices were never considered in the light of the explanation submitted by him. It is submitted by the learned counsel for the petitioner that the petitioner had been prevented from filing the pay-in-slips on account of his sickness, which was not considered by the respondents. Thereafter, the petitioner had deposited the pay-in-slips for the months of June and July, 2013.

5. However, it appears from the impugned order (Annexure 5) that a report has been submitted against him stating



that the petitioner had not deposited the pay-in-slips between the period March, 2013 and September, 2013. It is on the basis of such report submitted by the Circle Officer-Cum-Block Supply Officer, Navanagar, that the impugned order has originated.

6. Learned counsel for the petitioner further submits that the impugned order stands vitiated on account of the fact that not only did the notices contain little information about the allegations against the petitioner but also the enquiry report which followed in pursuance thereof was never communicated to him. It is thus submitted that the impugned order being in utter violation of the principles of natural justice is fit to be quashed. He further submits that the enquiry report submitted on 5.12.2013, contained in Memo No.1080, is wholly against the facts of the case and the same having not been served on him is fit to be set aside.

7. A counter affidavit has been filed on behalf of the State. In the said counter affidavit, it has been stated that the impugned order is wholly legal and valid, inasmuch as the petitioner had been granted the PDS licence for becoming part of the welfare scheme known as '*Antyodaya Scheme*', which was being implemented through the Public Distribution System. It is submitted that one of the members of the Sub-Divisional Monitoring Committee, namely, Bhrigunath Rajak, filed a



petition before the Sub-Divisional Officer, Dumraon stating that the petitioner had not been distributing the food grains (rice and wheat) to the members of B.P.L. and *Antyodaya* family properly. It was this complaint petition which has necessitated the issuance of notice against the petitioner in the month of June, 2013. Furthermore, it was discovered that the petitioner had not deposited the pay-in-slips for the months of November, 2012 and February, 2013 to May 2013, for which another notice was sent to the petitioner. Replies to the said notices were not found to be satisfactory and, therefore, the respondents had proceeded to cancel the PDS licence of the petitioner. Learned counsel for the State further submits that it is true that the complaint petition was not forwarded to the petitioner, but the petitioner has also not answered the notice dated 5.6.2013.

8. A perusal of the counter affidavit filed by the respondents reveals that since the petitioner had not answered the show cause notice, a report was, once again, called for from the Block Supply Officer, which was submitted on 7.9.2013, wherein a report has been submitted to the S.D.O. stating that the petitioner had not filed the pay-in-slips between the months March, 2013 and September, 2013. Thus, the petitioner's licence was cancelled on the basis of the said report.



9. Having heard learned counsel for the petitioner and the learned counsel appearing on behalf of the State, it appears that the impugned order stands vitiated for the following reasons. The show cause notices do not clearly contain the entire substance of the allegations for which the petitioner was sought to be proceeded against. It is also bad for the reasons that the show cause filed by the petitioner, in response to such notices, was not considered in its true perspective, inasmuch as the ground of illness was totally overlooked. Further reason that the successive notices contained different reasons for proceeding against the petitioner show the arbitrary action of the respondents in somehow depriving the petitioner of proceeding with his PDS shop and continuing his livelihood.

10. In an earlier decision in CWJC No.18426 of 2015, disposed of on 23.2.2017, by a co-ordinate Bench of this Court, which has been brought before me, it has been held that cancellation of licence for non-lifting of food grains by not depositing the pay-in-slip with the explanation that the PDS dealer was sick cannot be sustained. Furthermore, the authority having not furnished the copy of the enquiry report before proceeding to cancel the licence is not only wholly irregular but also is in violation of the principles of natural justice, which cannot be sustained.



11. Thus, the impugned order, dated 20.12.2013, contained in Annexure 5, stands vitiated and is thus quashed. The matter is remitted back to the Sub-Divisional Officer for fresh consideration in accordance with law.

12. Needless to say that the authority shall consider the explanation offered by the petitioner and only after serving upon a copy of the enquiry report shall proceed to decide the case of the petitioner.

13. With the aforementioned observations and directions, the writ application stands allowed. However, there shall be no order as to costs.

(Anjana Mishra, J)

PNM

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.05.2017
Transmission Date	NA

