

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11235 of 2016

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Arun Singh, S/o Banshidhar Singh, Resident of Village- Rawetia, P.S.- Murar,
Buxar.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Consumer Protection Department, Bihar, Patna
2. The District Magistrate-cum-Collector, Buxar.
3. The Sub-Divisional Officer, Dumraon, Buxar.
4. The Block Supply Officer, Simri, Buxar.
5. The Block Supply Officer, Chakki, Buxar.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Adv.
Mr. Anil Kumar Roy, Adv.

For the Respondent/s : Mr. Dhurjati Kr.Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 19-07-2017

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

2. In this case, the petitioner is challenging the order containing memo no.1138 dated 21.11.2013 passed by the Sub-Divisional Officer, Dumraon, by which the P.D.S. licence of the petitioner has been cancelled. Further prayer has been made for quashing the order dated 07.06.2016 passed in case no.168 of 2014 by the Collector, Buxar, whereby, he has dismissed the appeal filed by the petitioner.

3. The petitioner was running a P.D.S. shop. The



petitioner was served a letter dated 28th October, 2013, in which it has been recorded that the shop of the petitioner was inspected by the Sub-Divisional Officer, Dumraon along with Block Supply Officer and during inspection it was found that the petitioner was not running the shop in a proper manner and altogether 5 misconducts has been mentioned in the said letter and called upon the petitioner to file the show-cause. Whereupon, the petitioner has filed the show-cause, but the Sub-Divisional Officer was not satisfied with the show-cause and cancelled the P.D.S. licence of the petitioner. Being aggrieved by the order of the Sub Divisional Officer, the petitioner filed an appeal being Case No.168 of 2014 before the appellate authority, which has been dismissed.

4. Short point has been raised by the petitioner that the Sub-Divisional Officer who has initiated the proceeding on the basis of the inquiry report as well as during inspection he has recorded the version of certain consumers, making allegation against him, but the fundamental document which is the basis for initiation of inquiry was not served upon the petitioner and thereby it causes a prejudice and violates the interest of natural justice.

5. In the counter affidavit, it has been stated in paragraph no.6 that at the time of inspection the petitioner was present in the



shop. In paragraph no.8, it has been stated that inquiry report was not served upon the petitioner.

6. Learned counsel for the State has tried his best to impress upon the Court the inspection was done in presence of the petitioner and if the inquiry report has not been served, then no prejudice has been caused to him. However, learned counsel for the State has failed to show that the statements which were recorded in presence of the petitioner during the inspection, does not bear his signature. If the petitioner was present at the time of inspection, then the authority was required to take his signature and in the show-cause it should have also be mentioned about the presence of the petitioner during inspection. But, these facts are missing from the record. At the same time, the Certificate Officer while passing the order has not assigned his own reasons for rejecting the plea which has been taken by the petitioner.

7. In such view of the matter, the order dated 21.11.2013 passed by the Sub-Divisional Officer, Dumraon as well as the order dated 07.06.2016 passed by the Collector, Buxar are set aside. The matter is remanded back to the Sub-Divisional Officer, Dumraon, for passing fresh order. Now, the question of service of inquiry report does not arise as the inquiry report along with the statement as



part of the counter affidavit, which has been served upon the petitioner. The petitioner, if so liked, may file his additional objection, which will be considered by the Sub-Divisional Officer, Dumraon. The Sub-Divisional Officer, while taking the decision will consider the objection of the petitioner and assign his own reason for the defence which the petitioner has taken or he may take by filing additional objection. The entire process must be completed by the Sub-Divisional Officer, Dumraon, within a period of three months from the date of receipt/production of a copy of this order.

8. With the aforesaid observations and directions, this writ application is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	22.07.2017
Transmission Date	N/A

