

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10008 of 2016

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1. Shyamal Kishore Bhagat s/o Late Ramrup Bhagat r/o at and P.O. Akbarpur, P.S. Bhawani, District Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, Purnea.
3. The Sub Divisional Magistrate Dhamdaha, Purnea.
4. The Block Supply Officer, Bhawanipur, Purnea.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Laxmi Narayan Das
For the State : Mr. Mnoy Kumar Ambastha, SC 26
Mr. Subodh Kumar, AC to SC 26

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 04-09-2017

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

In this writ petition, petitioner is challenging the order dated 9.2.2016 passed by the Collector, Purna in Supply Appeal Case No.48 of 2013 by which he has dismissed the appeal and affirmed the order of cancellation of licence passed by the Sub Divisional Officer, Dhamdaha by the order dated 20.2.2012.

Petitioner is PDS shop owner under PDS Scheme vide Licence No. 4 of 2007. The Sub Divisional Officer, Dhamdaha on the basis of the report submitted by the Block Supply Officer, Dhamdaha vide memo no.101 dated 12.12.2012 initiated a



proceeding against the petitioner. Show cause notice was served upon the petitioner wherein altogether six charges were mentioned and called upon him to file explanation. In turn the petitioner has filed explanation which was considered and the Sub Divisional Officer did not agree with the explanation and vide order dated 20.12.2013 the Sub Divisional Officer has cancelled the licence of the petitioner whereafter petitioner filed an appeal vide Supply Appeal Case No.48 of 2013. The Collector during pendency of the appeal vide order dated 2.1.2015 has directed the Additional Collector to hold an enquiry and submit the report. The Additional Collector submitted the report in favour of the petitioner but the Collector without considering the report submitted by the Additional Collector rejected the appeal.

Learned counsel for the petitioner submits that when the Collector himself has directed the Additional Collector to hold an enquiry and submit the report. Enquiry report was submitted then it was incumbent upon the Collector to consider the same and pass order but he failed on that account order suffers from illegality.

Learned counsel for the State has tried to justify the order of the Collector but error is so patent which cannot be ignored on the score that the Collector has constituted one man committee



for enquiry. At least he should have considered the report of the Additional Collector.

In such view of the matter, the order dated 9.2.2016 passed by the Collector, Purnea in Supply Appeal Case No.48 of 2013 is set aside and matter is remanded back to the Collector, Purnea to pass a reasoned order considering the report submitted by the Additional Collector. All process should be completed within a period of two months from the date of receipt/production of a copy of this order.

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

(Shivaji Pandey, J)

Vinay/-

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

