

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15895 of 2016

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Ram Dular Singh S/o Darbeshi Singh Resident of Village-Siropatti, P.O.+P.,S.
Belsand, District-Sitamarhi

.... Petitioner/s

Versus

1. The state of Bihar through its Principal Secretary, Food and Civil supply, Government Bihar Patna
2. The Principal Secretary, Food and Civil supply, Bihar Patna
3. The District Magistrate, Sitamarhi
4. The Sub-Divisional Officer, Belsand, Sitamarhi.
5. The Block Development Officer cum The Block Supply Officer, Belsand Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Ranjan, Adv.

For the Respondent/s : Mr. Lalan Kumar, AC to GP-9

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 08-08-2017

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

In this case, the petitioner has challenged the order dated 24.10.2013 passed by the Sub-Divisional Officer, Belsand as well as the order dated 10.6.2016 passed by the Collector, Sitamarhi.

The petitioner is running a PDS shop, an inspection was conducted, was found to be running in an improper manner, led to initiation of a proceeding, show-cause was asked but, reply was not received in time led to rejection of the licence. The petitioner filed an appeal which remained pending for a long period compelled the petitioner to approach this Court in CWJC No. 2487 of 2014, the matter was remanded back with a direction to dispose of the same.



The petitioner has challenged the order on two counts, firstly that the order suffers from illegality of being a cryptic order has been passed by both the authorities, namely, Sub-Divisional Officer as well as Collector even without discussing the material on record as also without discussing the plea of the petitioner. Secondly, a plea has been taken by the petitioner that that it is the primary duty of the authority that before passing any order, he must have served proper notice and should have asked for explanation for considering the same and, only then, the authority could have passed the order but, in the present case, as per petitioner, he did not receive any notice or show-cause and without giving proper opportunity of hearing, the authority has passed the order.

Learned counsel for the State has drawn attention of this Court towards an order passed by the Appellate Authority wherein statement has been made that the findings recorded by the S.D.O. reflects service of notice through letter no.1533 dated 3.10.2013

Learned counsel for the petitioner in fact has submitted that there is no service of notice and it can be verified from the records itself. Inasmuch as, the order is without dealing with the merit of the case which was the primary duty of the Appellate Authority to deal with the case on its merit as well as on law treating the same as first appeal was required to deal with every aspect of the matter.



This Court has perused the order of the S.D.O. which itself is a cryptic order having not being denied by the State Government. The order of the Collector also does not deal with the matter. In that view of the matter, the order dated 24.10.2013 passed by the S.D.O., Belsand and the order dated 10.6.2016 passed by the Collector, Sitamarhi are set aside and the matter is remanded back to the S.D.O., Belsand to take an action in accordance with law. If the show-cause notice has not been served upon the petitioner or is lying in the file, the same must be served upon the petitioner and after considering the explanation filed by the petitioner as also after giving an opportunity of hearing to the petitioner, the S.D.O. will pass a fresh order in accordance with law.

This Court is not giving any opinion on the merit of the case. Let the S.D.O., Belsand should decide the case within a period of four months from the date of receipt/production of a copy of this order.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.08.2017
Transmission Date	NA

