

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4772 of 2014

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Musafir Yadav, Son of Late Harish Chandra Yadav, Resident of Mohalla - Rajgir
Bari Milki, Town & P.S. Rajgir, District – Nalanda.

.... Petitioner

Versus

1. The State Of Bihar
2. The Divisional Commissioner, Patna Division, Patna
3. The District Magistrate, Nalanda
4. The Sub - Divisional Officer, Rajgir, District - Nalanda
5. The Block Supply Officer, Rajgir, District - Nalanda

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sarvadeo Singh, Advocate
Mr. Sanjay Kumar, Advocate

For the Respondent/s : Mr. Ravi Kumar, AC to AAG-13

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 10-01-2017

Heard parties.

The petitioner is aggrieved by the order dated 1.02.2013,
as contained in Annexure-2, passed by the licensing authority-cum-
Sub Divisional Officer, Rajgir, Nalanda by which his PDS Licence
No.168 of 2007 has been cancelled.

Sole ground raised by the petitioner at the time of hearing
is that the show cause notice as well as impugned order are based on
the certain enquiry conducted on 16.01.2013 by the Block Supply
Officer, Rajgir in which certain irregularities were found, however, a
copy of the enquiry report was never served upon the petitioner along
with the show cause notice to enable him to make out his case.

The issue is no longer *res integra* as this Court on



several occasions has held that if the show cause notice and the impugned order are based upon the inquiry report and copy of the same was not served upon the licensee along with the show cause notice then it would mean that adequate opportunity was never given to the petitioner to make out his case as it would be impossible for him to give proper reply to the show cause notice in the absence of the same. A reference in this regard is made to a decision of this Court rendered in **Brahmdeo Rai Vs. the State of Bihar and Others [2013 (2) PLJR 706]** holding that in such a situation the order is bad and in violation of the principle of natural justice.

Accordingly, this writ application succeeds. The impugned order dated 01.02.2013, as contained in Annexure-2, is quashed and set aside. The petitioner's licence is to be restored immediately.

However, this order would not come in the way of the licensing authority in initiation of any fresh proceeding in accordance with law, if it so desires, but in such case a reasonable opportunity would be required to be granted to the petitioner.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	NAFR
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