

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17706 of 2014

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Ganesh Sah son of late Bhuneshwar Sah resident of village - Bishwanathpur
Panchayat Paroha, Police Station - Dumra, District - Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Sitamarhi
3. The District Supply Officer, Sitamarhi
4. The Sub Divisional Officer, Sitamarhi Sadar, District - Sitamarhi
5. The Block Supply officer, Dumra, District - Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate
Mr. Shankar Kumar, Advocate

For the Respondent/s : Mr. Raj Ballabh Pd. Yadav, AAG-11
Mr. Dinesh Maharaj, AC to AAG-11

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 17-01-2017

Heard parties.

The petitioner seeks quashing of the order dated 22.08.2014
(Annexure-4) passed by the Sub-Divisional Officer-cum-licensing
authority, Sitamarhi Sadar by which he has cancelled the PDS Licence
No.62 of 2007 of the petitioner.

At the outset, it is submitted that the impugned order has
to go in view of the fact that the same as well as show cause notice, as
contained in Annexure-1, is based upon an enquiry conducted by the
Assistant Supply Officer, Sitamarhi Sadar. It is contended that a copy
of the report of such inspection or enquiry was never supplied to the



petitioner along with the show cause notice.

In paragraph 12 of the counter affidavit, it has been stated that the petitioner has never asked for the enquiry report and there is no provision of law to provide such enquiry report along with the show cause notice.

Such statement appears to have been made by the concerned officer contrary to the decisions rendered by this Court as well as other coordinate Benches of this Court holding that supply of copy of the enquiry report would be mandatory if the charges stated in the show cause notices as well as the grounds taken in impugned order are based upon the report of such enquiry. In absence of that, the same has to be held not only in violation of the principles of natural justice but also in violation of the clause 7 (II) of Public Distribution System (Control) Order, 2001 which mandatorily requires that the licensee should be given reasonable opportunity to make out his case in a proceeding for cancellation of licence. Otherwise also, in absence of copy of such report of enquiry making allegations against him, the concerned licensee would not be able to submit adequate and proper reply of the allegations made against him. 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 would be bad and in violation of the principle of



natural justice.

It appears that such statement has been made in counter affidavit in a haste manner without properly examining the relevant provision and decisions rendered by the Court of law.

As a result, this writ application succeeds. The impugned order dated 22.08.2014, as contained in Annexure-4, is quashed and set aside.

However, the matter is remitted back to the licensing authority, who first would supply the copies of the enquiry report and the complainants of beneficiaries, if any, to the petitioner and then grant him reasonable opportunity to file a fresh reply. Final decision should be taken by him after considering the grounds raised by the petitioner.

It is expected that the entire exercise would be completed within a period of three months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	09.05.2017
Transmission Date	N.A.

