

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1767 of 2015

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Nand Lal Prasad Yadav S/o Late Hardeo Rai Resident of village -
Bishwanathpur Dumra, P.S. Dumra, District - Sitamarhi

.... Petitioner

Versus

1. The State of Bihar through Secretary, Food & Civil Supply Department, Govt. of Bihar, Patna
2. The Sub Divisional officer, Sitamarhi
3. The Block Development officer, Sitamarhi

.... Respondents

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Appearance :

For the Petitioner : Mr. Anujit Sinha, Advocate

For the Respondents : Mr. Indradeo Prasad, SC 27

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 06-11-2017

The present writ petition has been filed for setting aside the order dated 24.12.2014 contained in Memo No. 919 by which the learned Sub Divisional Officer, Sitamarhi was pleased to cancel the PDS licence of the petitioner to carry on trade as P.D.S. dealer.

2. Learned counsel for the petitioner makes a short submission to question the validity of the impugned order of cancellation to the effect that a copy of the enquiry report relied upon by the respondent was never made available to the petitioner, nor that they confronted with the same.

3. Despite a copy of writ petition having been served on the respondents in January, 2015, no counter affidavit till date has been filed controverting the stand of the petitioner. Learned counsel for the respondents submits however, that the petitioner has alternative remedy by filing an appeal against the impugned order.



4. In the above view of the matter, this Court is satisfied that violation of the principles of natural justice has occurred in the decision making process. The impugned order has relied upon the facts found in course of inspection, details of which however, were not supplied to the petitioner. It is well settled that availability of alternative remedy is not an absolute bar in matters involving violation of the principles of natural justice.

5. In the above circumstances, the impugned order dated 24.12.2014 (Annexure-4) is set aside and the matter is remanded to the Sub Divisional Officer, Sitamarhi to pass orders afresh after supplying a copy of the enquiry report and grant of opportunity of hearing to the petitioner in accordance with law.

6. It is made clear that supplies to the petitioner should be resumed and continued until such time fresh orders are passed by the concerned authority.

(Vikash Jain, J)

Chandran/BT

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