

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3135 of 2015

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Kali Sao Son of Late Lakhan Sao resident of Village- Chakandra P.S.- Chewara
District-Sheikhpura

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate cum Collector Sheikhpura
3. The Sub Divisional Officer, Sub-Division- Sheikhpura, District- Sheikhpura
4. The Block Supply Officer Block- Chewara, District- Sheikhpura

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Sushmita Mishra, Adv.

For the Respondent/s : Mr. Birju Prasad, GP-13
Mr. Ravi Kumar, AC to GP-13

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 19-06-2017

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

In this case, the petitioner is challenging the orders
dated 19.12.2014 passed by the District Magistrate cum Collector,
Sheikhpura, whereby and whereunder, the P.D.S. Appeal No.
28/2014-15 has been dismissed and the order dated 7.7.2014 passed
by the Sub-Divisional Officer, Sub-Division Sheikhpura has been
affirmed, whereby and whereunder, the P.D.S. licence of the
petitioner has been cancelled on certain allegations.

On receipt of the complaint, the Supply Inspector cum
In-charge, Block Supply Officer, Chewara, Sheikhpura conducted an



enquiry on 19.6.2014 and found certain irregularities having been committed in distribution of P.D.S. Goods under the P.D.S. Scheme, the first misconduct was the shop was found closed on the day of inspection, secondly, the petitioner was distributing the grains at a higher rate than what was fixed by the Government and the third allegation was that he was not distributing the kerosene oil at the rate fixed by the State Government.

From the letter no. 137 dated 21.6.2014, the Licensing Authority cum Sub-Divisional Officer, Sheikhpura has asked a show-cause from the petitioner, in pursuance thereof, the petitioner has filed the show-cause, given his own explanation with respect to the allegations made in the letter dated 21.6.2014 but, the explanation was not to the satisfaction to the Licensing Authority who passed an order dated 7.7.2014 cancelling the license of the petitioner. The order dated 7.7.2014 was challenged before the appellate authority who has rejected the appeal filed by the petitioner.

Learned counsel for the petitioner submits that the inspection was conducted on the day he was absent as on that day, as he had gone for collecting the kerosene oil which the petitioner has not mentioned in the notice board as well as both the authorities have found that the petitioner was charging higher rate than fixed by the State Government.



Learned counsel for the petitioner submits that though the petitioner was served with the show-cause but, without attaching the enquiry report submitted by the Supply Inspector. As the enquiry report is the basis for initiation of the proceeding against him, it was obligatory on the part of the Sub-Divisional Officer, Sheikhpura that before taking any action against the petitioner, he should have given the enquiry report which was submitted against him.

The State has filed counter affidavit but nowhere this aspect of the matter has been dealt with by the State with respect to service of report upon the petitioner.

Fairness in action and natural justice is part of Article 14 of the Constitution of India. Service of enquiry report is the basic tenet of natural justice as it is the basis for initiation of proceeding against the petitioner.

Thus, it is a gross violation of the principle of natural justice as it was required to the authority concerned before initiation of a proceeding, he should have served a copy of the enquiry report upon the petitioner. Admittedly, the enquiry report has not been served rather straightway show-cause was issued and explanation was called.

In that view of the matter, the letter dated 19.12.2014 passed by the District Magistrate cum Collector, Sheikhpura and the



order dated 7.7.2014 passed by the Sub-Divisional Officer, Sub-Division Sheikhpura are set aside and the matter is remanded back to the Sub-Divisional Officer, Sheikhpura who will be obliged to serve a copy of the enquiry report upon the petitioner and, the petitioner, if so advised, on receipt of the enquiry report, will file an additional explanation, if any explanation is filed by the petitioner, the same will be considered by the Sub-Divisional Officer, Sheikhpura and take a decision in accordance with law.

All the proceeding before the Sub-Divisional Officer, Sheikhpura will be concluded expeditiously preferably within a period of three months from the date of receipt/production of a copy of this order.

With the aforementioned observation and direction, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.06.2017
Transmission Date	NA

