

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5956 of 2016

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Punita Devi, wife of Raman Lal Chaudhary, Resident of Village and Post-
Panchobh, P.S.- Bishanpur, District- Darbhanga.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector and District Magistrate, Darbhanga, District- Darbhanga.
3. The Licensing Authority-cum-Sub-Divisional Officer, Sadar, Darbhanga, District- Darbhanga.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Advocate

For the Respondent/s : Mr. Sushil Kr. Singh, AC to AAG-10

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 31-01-2017

Heard parties.

The petitioner seeks quashing of the order dated 16.12.2014, as contained in Annexure-1, passed by the licensing authority-cum-Sub Divisional Officer, Sadar, Darbhanga by which his PDS Licence No.28 of 2007 has been cancelled. He also assails the appellate order dated 28.02.2016, as contained in Annexure-5, passed by the Collector, Darbhanga by which he has dismissed the appeal and upheld the order passed by the licensing authority.

Sole ground taken by the petitioner at the time of hearing is that the show cause notice (Annexure-2 and 2A) as well as impugned order are based on the certain enquiry conducted by the



Block Supply Officer, Hanuman Nagar on 16.08.2014 and again by the Assistant District Supply Officer, Sadar, Darbhanga on 17.08.2014 in which certain irregularities were found, however, copies of the same were never served upon the petitioner along with the show cause notice to enable her to make out her 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 never served upon the petitioner along with the show cause notice then it would mean that adequate opportunity was never given to the petitioner to make out her case as it would be impossible for her/him to give proper reply to the show cause notice in 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 would be bad and in violation of the principle of natural justice.

It is stated in paragraph 15 of the counter affidavit that allegations are false and baseless. This prompted this Court to call for the original records. From the original records, learned counsel is not able to show any of the reports of enquiry conducted by the aforesaid Officers were supplied to the petitioner. Thus, it has to be understood that everything was done without serving copies of the enquiry reports



and false statements in that respect have been made in the counter affidavit. This act of the respondent is deprecated.

Accordingly, in my view, the orders impugned are not at all sustainable in law for the reasons aforesaid.

As a result, this writ application succeeds. The orders impugned as contained in Annexure-1 and 5 are quashed and set aside.

However, the matter is remitted back to the licensing authority for taking a fresh decision in accordance with law, however, before doing that he would be obliged to supply copies of the both enquiry reports as well as the complaints made by the beneficiaries, if any against the petitioner and grant the petitioner reasonable time to file a fresh reply. Thereafter, a decision in accordance with law would be required to be taken by him which should be reasoned and speaking one and should be passed after considering the grounds raised by the petitioner in her reply.

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.

It is made clear that if no final decision is taken within the aforesaid period of three months after production of a copy of this order then the petitioner's licence would automatically stands restored



and such restoration would be subject to the final decision which would be taken by the licensing authority.

(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.

