

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1251 of 2015

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Anju Devi, W/o Sri Shyamsundar Singh, Resident of Village Ramchanda, P.O.,
P.S. and District Khagaria.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector, Khagaria, District Khagaria.
3. The Sub Divisional Officer, Khagaria, District Khagaria.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Advocate
For the Respondent/s : Mr. A.N.Jha, AC to SC-18

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 04-02-2017

Heard parties.

The petitioner seeks quashing of the order dated 11.02.2010, as contained in Annexure-1, passed by the licensing authority-cum-Sub Divisional Officer, Khagaria by which his PDS Licence No.59K of 2007 has been cancelled. She also assails the appellate order dated 24.12.2014, as contained in Annexure-4, passed by the Collector, Khagaria by which he has dismissed the appeal and upheld the order passed by the licensing authority.

It is contended on behalf of the petitioner that the order impugned suffers from three vices. First is that only 24 hours time was granted to file reply to the show cause dated 1.02.2010, which was not reasonable. It is next contended that the grounds raised in her



reply has also not been considered. Lastly, it is contended that the order has been passed without serving a copy of the report of the enquiry conducted by the Block Supply Officer, Khagaria on 1.02.2010.

I find force in the submissions raised on behalf of the petitioner. Twenty four hours time cannot be held to be justified for granting opportunity to file a reply to the show cause notice. That apart, it has been held on several occasions that if the show cause notice and the order of cancellation of licence are based upon an inquiry conducted by any authority and copy of the same was never served upon the licensee along with the show cause notice then it would mean that adequate opportunity was never given to the licensee to make out his case as it would be impossible for 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 is bad and in violation of the principle of natural justice.

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 4 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 copy of the enquiry report 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 should 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	02.05.2017
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