

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9517 of 2016

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Lal Babu Sahani, Son of Late Gagan Deo Sahani, resident of village - Mahindwara,
P.S. Runnisaidpur, District - Sitamarhi

.... Petitioner

Versus

1. The State of Bihar
2. The Commissioner, Tirhut Pramandal, Muzaffarpur, District - Muzaffarpur
3. The District Magistrate, District Sitamarhi
4. The Sub-Divisional Office, Sitamarhi, Sub-Division (Sadar) Sitamarhi, District
- Sitamarhi
5. The Block Supply Officer, Runni Saidpur Block, District Sitamarhi

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Bipin Bihari Singh, Adv.
For the Respondent/s : Mr. Anirban Kurdu, S.C.-24

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 04-08-2017

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

2. The petitioner is running a P.D.S. shop vide licence
no.22 of 2012. The Block Supply Officer has conducted the inquiry
and submitted its inquiry report. On the basis of the same, the
petitioner was issued show-cause, making allegation that he has been
charging higher rate than the rate fixed by the State Government and
he has not attached the pay-in-slip of the consumer for each month.



The petitioner filed reply, made a claim that he is not charging the higher rate than the rate fixed by the State Government inasmuch as he always attached pay-in-slip. The Sub Divisional Officer was not satisfied with his explanation and cancelled the licence of the petitioner. Against that, the petitioner moved before this Court in C.W.J.C. No.9789 of 2013, this Court directed the petitioner to file appeal against the order of the Sub-Divisional Officer, the petitioner filed the appeal being P.D.S. Appeal No.21 of 2014 unsuccessfully as well as the Revision Application vide Case No.200 of 2015.

3. In the present case, the petitioner has raised the grievance that the order of all the three authorities suffers from illegality on the ground that merely on the basis of the complaint, without holding a proper inquiry, the Sub-Divisional Officer has passed the order and the inquiry report which is the basis, upon which proceeding was initiated against him, was not served upon him.

4. In the supplementary counter affidavit, the State has attached the inquiry report that also bears the statement of different consumers and also different Store Issue Orders to substantiate the claim of the State that the petitioner did not distribute the goods properly as well as lot of consumers have made complaint that the



petitioner was charging higher rate than the rate fixed by the State Government, but in paragraph no.12, it has been admitted in specific words that the inquiry report was not served upon the petitioner, which was basis for initiation of proceeding and ultimately passing order by all the three Officers of the State.

5. The proceeding was initiated on the basis of the inquiry report submitted against the petitioner, which is a primary document, but having been not served upon the petitioner vitiates entire proceeding as it is completely violates the principle of natural justice.

6. In that view of the matter, the order dated 14.02.2013 passed by the Sub-Divisional Officer, Sitamarhi, order dated 31.07.2015 passed by the District Magistrate, Sitamarhi and order dated 10.11.2015 passed by the Commissioner are set aside. The matter is remanded back to the Sub-Divisional Officer, Sitamarhi for passing fresh order. There is no need to serve the copy of the inquiry report upon the petitioner as the same is already attached with the counter affidavit, so it will be treated that the inquiry report and the statement has been served upon the petitioner. The petitioner, if so like, may file additional show cause and the Sub-Divisional Officer, shall consider the same and after hearing the petitioner pass a



reasoned order in accordance with law.

7. With the aforesaid observations and directions, this writ application is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	16.08.2017
Transmission Date	N/A

