

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.15858 of 2014**

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Sanjay Paswan, son of Late Suman Paswan, resident of Village-Basudewa, P.S.  
Bangaon, Distt.- Saharsa

.... .... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food Civil Supply Corporation, Bihar, Patna
2. The Commissioner, Koshi Division, Saharsa
3. The District Magistrate, Saharsa
4. The Sub-Divisional Officer, Sadar, Saharsa
5. The Block Supply Officer, Kahra, Saharsa

.... .... Respondent/s

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**Appearance :**

For the Petitioner : Mr. D.N. Tiwari, Advocate  
Mr. Anujit Sinha, Advocate  
For the S t a t e : Mr. Kumar Samarjeet Singh,  
A.C. to S.C.-21

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**CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA**

**ORAL JUDGMENT**

**Date: 29-06-2017**

Heard learned counsel for the petitioner and the learned  
counsel appearing on behalf of the State.

2. The petitioner seeks to set aside the order dated  
31.12.2012 contained in Memo No.522-2 passed by the Sub-  
Divisional Officer, Sadar, Saharsa, as contained in Annexure 1,  
whereby the P.D.S. licence of the petitioner has been cancelled and  
the subsequent orders contained in Supply Appeal No.01 of 2013,  
by which the appeal filed by the petitioner has been rejected by the  
Collector, Saharsa, vide order dated 13.07.2013, as contained in  
Annexure 2, and, further, also seeks to quash the order dated



16.12.2013 passed by the Commissioner, Kosi Division, Saharsa, in Supply Appeal No.405 of 2013, as contained in Annexure 3.

3. Aggrieved by the aforesaid orders, the petitioner submits that against the notice issued by the learned S.D.O., the petitioner had filed his show cause, which was rejected without going into the merits of the case and the learned S.D.O. without dealing with his contentions and the case as made out by him had rejected his show cause as “not satisfactory”.

4. Learned counsel for the petitioner submit that at no point of time, the enquiry report was ever served on the petitioner nor the names of the allegationists were ever supplied so as to provide him an opportunity to cross-examine them at any stage. He further submits that the appellate authority as well as the revisional authority had both relied on the said report of the learned S.D.O., which was never provided to the petitioner and thus the impugned orders stand vitiated. Learned counsel for the petitioner further submits that in view of the aforementioned facts and circumstances, there is clear violation of the principles of natural justice and the orders as impugned in the present writ application are wholly illegal and arbitrary and thus fit to be set aside. He further submits that there is no clear-cut finding against him at any stage so as to occasion the wrong as has been done by the impugned orders.



5. Having heard learned counsel for the petitioner and the learned counsel for the State, it appears that the petitioner has not been provided an adequate opportunity for dealing with the allegations as has been levelled against him. It further appears that the basic order of the S.D.O. is wholly based on no material and there is no finding to the effect that the shop of the petitioner had been closed without any notice. The impugned notice did not contain the names of the allegationists nor was the enquiry report ever supplied to the petitioner.

6. In view of such facts and circumstances, this Court finds and holds that the entire proceedings and the orders which followed stand vitiated. This Court had also held earlier that the closure of the PDS shop for a single day could not entail cancellation of the licence. The petitioner was also not given the names of the allegationists who are said to have complained that they were not supplied the BPL rice as it was only after the names having been received that the petitioner could verify from his record as to whether they were assigned the shop of the petitioner for grant of BPL rice to them.

7. In view of the aforementioned facts and circumstances, this Court is of the considered opinion that the orders dated 31.12.2012, 13.07.2013 and 16.12.2013, as contained



in Annexures 1, 2 and 3, cannot be sustained. They are accordingly quashed and set aside. The petitioner’s licence is thus directed to be restored.

8. In the result, the writ application stands allowed. However, in the facts and circumstances, there shall be no order as to costs.

**(Anjana Mishra, J)**

PNM

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