

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

**Civil Writ Jurisdiction Case No.23498 of 2013**

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Bipin Kumar, S/O Sri Bindeshwari Prasad Yadav, R/O Vill. + P.O. Baijnathpur,  
P.S. Saur Bazar, Distt. - Saharsa

.... .... Petitioner/s

Versus

1. The State Of Bihar
2. District Magistrate, Saharsa
3. Sub - Divisional Officer, Saharsa
4. Block Supply Officer, Saur Bazar, Saharsa

.... .... Respondent/s

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**Appearance :**

For the Petitioner : Mr. Mukesh Kumar, Advocate

For the S t a t e : Mr. Deepak Sahay Jamuar, A.C. to AAG-4

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

**ORAL JUDGMENT**

**Date: 11-10-2017**

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

2. The petitioner seeks quashing the order  
26.09.2013, contained in Memo No.2723-2 (Annexure 1), issued  
by the Sub-Divisional Officer, Sadar, Saharsa, cancelling his PDS  
Licence, bearing No.89/2011.

3. Learned counsel for the petitioner submits that  
the impugned order has been passed in utter violation of the  
principles of natural justice and also in violation of the settled  
principles of law. He further submits that a show cause notice was  
issued to the petitioner on 25.09.2013, which was served on him  
on 26.09.2013 at 4:00 P.M. The said notice did not contain a copy  
of the enquiry report nor was the petitioner afforded sufficient  
opportunity to meet the allegations stated in the show cause notice.  
He, however, filed his show cause on the same date, i.e.,  
26.09.2013 at 5:00 P.M., but the S.D.O. has proceeded to pass the



impugned order in hot haste without considering the show cause filed by the petitioner.

4. Learned counsel for the petitioner thus submits that there is a gross violation of the principles of natural justice as such an order cannot, by any stretch of imagination, be sustained in the eyes of law. There is not only non-supply of the enquiry report but also sufficient opportunity has not been afforded to him to meet the charges, as contained in the show cause notice.

5. Learned counsel appearing on behalf of the State has filed a counter affidavit in which it has been stated that the petitioner had lifted food grains much beyond the prescribed period causing difficulty to the P.D.S. consumers and it is for that reason that the licence of the petitioner has been cancelled. It is also stated in the counter affidavit that during the enquiry, the local consumers complained to the licensing authority regarding non-distribution of food grains by the petitioner. The Block Supply Officer, Saur Bazar informed that the petitioner lifted food grains on 25.09.2013 whereas the petitioner ought to have lifted the same in the same month and thus he has violated the provision of the Bihar Control Order. It is on the sole ground that the petitioner is alleged to have violated the provisions of the Control Order, which necessitated passing of the impugned order.

6. Having heard learned counsel for the petitioner and the learned counsel for the State and on perusal of all the materials placed on record, it appears that no sufficient opportunity was afforded to the petitioner to meet the allegations stated in the show cause notice. The copy of the enquiry report has also not been served on him, which is wholly violative of the principle of natural justice. Neither the names of the allegationists



were supplied to him nor was he allowed to cross-examine them.

7. In the wake of such facts and circumstances, this Court is of the considered opinion that the impugned order is wholly illegal, arbitrary and violative of the principles of natural justice and is fit to be quashed.

8. The impugned order dated 26.09.2013, contained in Memo No.2723-2 (Annexure 1), is, thus, quashed and the P.D.S. licence, bearing No. No.89/2011, stands restored. It shall be open to the petitioner to approach the concerned authority for restoration of the supply to his PDS dealership.

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

**(Anjana Mishra, J)**

PNM

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