

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10941 of 2016

=====

Chandrachudh Kumar Singh Son of late Geeta Singh resident of Village- Banhara,
P.S- Kharagpur District- Munger

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
3. The District Magistrate, Munger
4. The Sub Divisional Officer, Kharagpur, Munger
5. The Block Supply Officer, Tetiabambar, Munger

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Ms. Sushmita Mishra, Adv.

For the Respondent/s : Ms. Prakritita Sharma, AC to SC-25

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 09-05-2017

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

The petitioner is challenging the order dated 8.3.2016 passed by the appellate authority, the District Magistrate, Munger in Supply Appeal Case No. 01/2014-15 as well as the order of the S.D.O., Kharagpur dated 12.6.2014, whereby and whereunder, the licence of the petitioner has been cancelled.

The petitioner is running a P.D.S. shop bearing licence no. 01/10, the Supply Inspector has conducted an enquiry and he has submitted his report vide letter no. 80 (2) dated 19.4.2014, whereby



and whereunder, he has found four irregularities committed by the petitioner, whereupon, a show-notice was issued vide letter no. 38 dated 28.4.2014 which was replied by the petitioner, whereafter, the petitioner was asked to produce the distribution register, Cash memo and other documents which were handed over to the Supply Inspector, Tetiabambar and sought his comment which was replied by him vide letter no. 103 dated 6.6.2014, whereafter, he arrived to a finding that irregularities have been committed by the petitioner, cancelled the licence of the petitioner which has been affirmed by the District Magistrate, Munger which is the appellate authority.

Learned counsel for the petitioner has raised two points, firstly, neither the first enquiry report nor the second enquiry report was furnished to the petitioner but, only the show-cause was asked which he replied. Subsequently, the enquiry was conducted but again the report was not served upon the petitioner, thereby caused prejudice in contesting the case. Second point has been raised that neither the order of the S.D.O. nor the order of the Appellate Authority have discussed the case of the petitioner to arrive to an independent finding but, both the orders are completely cryptic, perfunctory and cannot be sustained in law.

Learned counsel for the State has raised two points, firstly that there is a provision for revision, the petitioner, instead of



coming directly to this Court, he should have exhausted the forum of revision. Another point has been raised that the order has been passed on the basis of material available on record saying that the petitioner was given show-cause, when the authorities were not satisfied with the explanation, passed the order but, one thing is very clear from the record that there is no denial of the fact that neither the first report nor the second report were served upon the petitioner which was the basis for arriving to a finding of commission of misconduct as well as both the orders are not fairly worded rather the same may be said to be cryptic order, has not discussed nor dealt with the plea that has been taken by the petitioner and arrived to an independent reasonable finding.

In that view of the matter, the order dated 8.3.2016 passed by the appellate authority, the District Magistrate, Munger in Supply Appeal Case No. 01/2014-15 as well as the order of the S.D.O., Kharagpur dated 12.6.2014 suffer from illegality of being not a reasoned order. Accordingly both the aforesaid orders are set aside.

The enquiry report is on the record by way of annexure attached to the counter affidavit which will be treated to be valid service upon the learned counsel for the petitioner. If the petitioner so advised may file show-cause and the licensing authority i.e. the S.D.O., Kharagpur, Munger will pass orders in accordance with law



within a period of four months from the date of filing of the explanation by the petitioner.

This application is, accordingly, allowed to the
aforementioned extent.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.05.2017
Transmission Date	NA

