

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20248 of 2014

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Umesh Kumar Yadav, son of Late Ganesh Prasad Mandal, resident of Village-
Bharahi Bazar, Panchayat- Madhuban, P.S. + District- Madhepura

.... Petitioner

Versus

1. The State of Bihar through Secretary Food & Civil Supply Department, Patna
2. The Collector, Madhepura
3. The SDO, Madhepura

.... Respondents

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Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Advocate
Mr. Vijay Anand, Advocate

For the Respondent/s : Mr. AAG15- YOGENDRA PD. SINHA
Mr. Rakesh Ambastha, AC to AAG-15

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 17-01-2017

Heard parties.

Sole ground taken at the time of hearing by the petitioner for assailing the impugned orders dated 30.05.2013 (Annexure-3) and 30.07.2014 (Annexure-4) passed by the licensing authority as well as the appellate authority respectively is that though the order of the licensing authority is based upon certain enquiry conducted by a joint inspecting team but a copy of the same was never supplied to the petitioner.

It is apparent from the order of the Collector that such issue was raised by the petitioner before the appellate authority but it has been answered by saying that since it is stated in the show cause



notice as to what irregularities were found during the course of enquiry, the allegation of petitioner is baseless. In my view, such stand taken by the appellate authority is wholly misconceived. The enquiry report consists of the details of enquiry which was done by the enquiry officer after analyzing the evidence collected during course of enquiry. If irregularities are found then charges are levelled against the person, however, unless the concerned licensee is aware as to what were the factual aspect and the evidence collected during the course of enquiry against such licensee, adequate and proper reply can not be filed by him. Therefore, this Court has held on several occasions that non-supply of the report of the enquiry which forms basis of issuance of show cause notice as well as passing of the order of cancellation of licence would be against the settled principles of natural justice as well as mandate of the provision contained in Clause 7 (II) of Public Distribution System (Control) Order, 2001.

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-3 and 4 are quashed and set aside.

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 copies 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 his reply.

It is expected that the entire exercise would be completed within a period of three months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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