

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2410 of 2016

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Parmanand Poddar, Son of Late Chhotelal Poddar, Resident of Village - Bharra,
P.S. - Sadar, District - Begusarai.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector, Begusarai, District - Begusarai.
3. The Sub-Divisional Officer, Sadar Begusarai, District - Begusarai.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Advocate
For the Respondent/s : Mr. Kumar Pankaj, AC to SC-5

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 31-01-2017

Heard parties.

The petitioner seeks quashing of the order dated 1.08.2012, as contained in Annexure-1, passed by the licensing authority-cum-Sub Divisional Officer, Sadar, Begusarai by which his PDS Licence No.66 of 2007 has been cancelled. He also assails the appellate order dated 26.08.2015, as contained in Annexure-7, passed by the Collector, Begusarai by which he has dismissed the appeal and upheld the order passed by the licensing authority.

Sole ground taken by the petitioner at the time of hearing is that the show cause as well as impugned order are based on the certain enquiry conducted by the Block Supply Officer, Begusarai in which certain irregularities were found, however, a copy of the



enquiry report was never served upon the petitioner along with the show cause notice to enable him to make out his case.

The issue is no longer *res integra* as this Court on several occasions has held that if the show cause notice and the impugned order are based upon the inquiry report and copy of the same was never served upon the petitioner along with the show cause notice then it would mean that adequate opportunity was never given to the petitioner to make out his case as it would be impossible for him to give proper reply to the show cause notice in absence of the same. A reference in this regard is made to a decision of this Court rendered in **Brahmdeo Rai Vs. the State of Bihar and Others [2013 (2) PLJR 706]** holding that in such a situation the order would be bad and in violation of the principle of natural justice.

Supplementary counter affidavit shows that the enquiry report was never served upon the petitioner.

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-1 and 7 are quashed and set aside.

However, 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.

It is made clear that if no final decision is taken within the aforesaid period of three months from the date of production of a copy of this order then the petitioner's licence would automatically stands restored and such restoration would be subject to the final decision which would be taken by the licensing authority.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	09.05.2017
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