

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3062 of 2016

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1. Ram Kirpal Pandey, son of Late Balbodh Pandey, resident of Village- Sothgaon,
P.S.-Harlakhi, District- Madhubani,

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Food and Civil
Supply, Govt. of Bihar,
2. District Magistrate, Madhubani
3. Commissioner, Darbhanga Division, Darbhanga.
4. S.D.O., Benipatti Cum Licensing Authority, District- Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur,
Mr. Nilesh Kumar
Mr. Amit Kumar

For the Respondent/s : Mr. Lalan kumar AC to GP-9

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 24-03-2017

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

In the present writ petition, petitioner is challenging the
order dated 10.3.2015 passed by the Sub Divisional Officer,
Benipatti by which he has cancelled licence granted under the
Public Distribution System licence for violation of the Control
Order, 2001.

The petitioner a licence holder vide Licence No. 05 of
2007 for running Public Distribution System shop. A surprise
enquiry was conducted in which it was found that he has



violated the terms and conditions of the licence as well as Bihar Trade Articles (Licenses Unification) Order, 2001 (hereinafter referred to as the Unification Order).

Limited grievance has been raised by the petitioner that though show cause notice was given to the petitioner and he has given reply thereto also but the Sub Divisional Officer being not satisfied with the reply, ultimately, led to cancellation of the licence. It has further been stated, in the show cause notice, the enquiry report not was attached is basis for initiation of cancellation of the licence thereby violates the principle of natural justice as he could not give proper reply to the allegation imputed against him. In support of his submission, learned counsel for the petitioner has placed reliance on the judgment of this Court in the case of Ram Ekbal Roy Vs. The State of Bihar & others, reported in 2012 (3) PLJR 203 which stipulates, if the basis of show cause is enquiry report, must remain attach as it has civil consequences.

In Ram Ekbal Raoy (supra) the Court has taken a view that non-service of enquiry report amount to keeping licence holder in complete dark violates natural justice. It will be relevant to quote paragraph 12 of the aforesaid judgment:

“12. Coming to the last issue, from the impugned order itself it appears that after



submission of the reply to the show cause notice, as per the direction of the superior authority, the licensing authority had directed the Circle Officer to conduct inquiry on certain issues and submit a report which was submitted. But learned counsel for the State could not point out either from the impugned order or from the counter affidavit filed on behalf of the State that a copy thereof was also supplied to the petitioner. Thus, it appears that the petitioner had been kept in complete dark regarding the further inquiry in this case and the licensing authority has passed the order of cancellation on the basis of such inquiry report. Thus, the writ application would succeed on this ground also.”

In view of the aforesaid judgment the order dated 10.3.2015 is hereby set aside and matter is remanded back to the Sub Divisional Officer, Benipatti i.e. Licensing Authority who will be obliged to serve the enquiry report, the is at liberty, if like so, may file additional explanation, the Sub Divisional Officer, Benipatti-cum-Licensing Authority, after giving proper hearing, would take decision in accordance with law.

With the aforesaid observation this writ petition is allowed.

Vinay/-

(Shivaji Pandey, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.3.2017
Transmission Date	NA

