

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14711 of 2015

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Umesh Paswan Son of late Tilo Paswan resident of village- Panchrukhi Itna, P.S-
Dharhara District- Munger

.... Petitioner/s

Versus

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

.... Respondent/s

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Appearance :

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

For the Respondent/s : Mr. Chandra Shekhar Singh, AC to GA-10

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 04-05-2017

Heard learned counsel for the parties.

In the present case, the petitioner is challenging the order dated 28.04.2015 passed by the appellate authority, the District Magistrate, Munger, whereby and whereunder, P.D.S. Appeal No. 8/2014-15 filed against the cancellation of the P.D.S. licence of the petitioner has been dismissed.

The petitioner is challenging the order of the S.D.O. dated 26.09.2014 as well as order of the Appellate Authority dated 28.04.2015 from where it appears that on receipt of the complaint, an enquiry was conducted in enquiry, wherein, certain deficiencies and



irregularities were found in running the shop, whereafter, a show-cause notice was issued to the petitioner, explanation was called for but, the explanation, given by the petitioner, was not to the satisfaction of the S.D.O., Sadar, Munger and has cancelled the license of the petitioner, the same was challenged before the appellate authority having not found favour with the petitioner's claim.

In the present writ application, a question has been raised that the show-cause as well as the order of the S.D.O as also the order of Collector is based upon the enquiry report and that itself has not been served upon the petitioner to know the contents mentioned therein and if they wanted to place reliance on those items of the enquiry report, it was sine quo non for the authority concerned to serve a copy of the enquiry report and, only thereafter, they could have proceeded for taking a final decision. Admittedly, it appears from the record that the copy of the enquiry report has not been served upon the petitioner but, the Collector has made certain observation of the enquiry report in the order. It is well settled principle that when the authority is placing reliance to the contents of certain document, in such a situation, it is obligatory on the part of the State Authority before using that document, he must serve a copy of the same so that there should be a proper compliance of the natural justice.

In that view of the matter, the both the orders suffer from



illegality and, thus, the order dated 28.04.2015 passed by the District Magistrate, Munger and the order dated 26.09.2014 passed by the S.D.O., Sadar, Munger are set aside and the matter is remanded back.

The enquiry report is already a part of the counter affidavit (Annexure-D) which has been served upon the learned counsel for the petitioner will be treated to be a valid service of the enquiry report on the petitioner.

The petitioner, if so advised, may file an additional show-cause before the S.D.O., Sadar, Munger who will be obliged to examine the show-cause, if any, filed by the petitioner and, after giving proper hearing, will take a decision in accordance with law expeditiously preferably within a period of three months from the date of receipt/production of a copy of this order.

With the aforementioned observation and direction, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.05.2017
Transmission Date	NA

