

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13160 of 2018

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Rudra Pratap Singh, Son of Sri Rup Narayan Singh, PACS Chairman, nagar Para South, Primary Agriculture Sakh Society-cum-P.D.S. Dealer Gram Panchayat Raj Nagarpara South Prakhand Narayanpur, Sub-Division-Naugachhia, District- Bhagalpur, P.D.S. License No. 41/2011 of Nagarpara South, Narayanpur, Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The District Magistrate, Bhagalpur.
3. The Sub-Divisional Officer, Naugachhia, District- Bhagalpur.
4. The Block Supply Officer, Naugachhia, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sarveshwar Tiwary, Advocate
For the Respondent/s : Mr. Arvind Ujjwal - SC4

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT

Date : 02-08-2018

Heard learned counsel for the petitioner and the learned counsel appearing on behalf of the State.

Petitioner challenges the order of cancellation of PDS licence being Licence No. 41 of 2011 dated 14.12.2016 as contained in Annexure-3 passed by the Sub Divisional Officer, Naugachhia, Respondent No. 3 as well as the order passed in Supply Appeal Case No. 137 of 2016-17 by the Collector, Bhagalpur dated 20.04.2018, as contained in Annexure-5.

Learned counsel for the petitioner submits that no enquiry report was served to him regarding the irregularities found during the course of inspection made by the licensing authority on



01.12.2016. He submits that only 48 hours was given to reply and produce all the registers relating to storage, distribution of foodgrains. He submits that the petitioner submitted his show cause reply that he had gone out of station and 48 hours time was neither sufficient to submit show cause reply nor he could elaborate the contents of the register regarding storage and disbursement.

Having heard counsel for the parties, I am of the view that 48 hours time granted for filing show cause reply, does not amount to reasonable opportunity and the order of cancellation of licence affirmed in appeal is not in accordance with law and is violative of principles of natural justice. Now, the issue is no longer res integra as this Court in the case of Gano Bhuiyan @ Gano Manjhi Vrs. The State of Bihar and others, passed order dated 10.07.2018 in CWJC No. 9842 of 2018 relying on the decision of this Court in the case of Smt. Fulpati Devi Vrs. The State of Bihar, since reported in 2013 (1) PLJR 718 has held that three days time to reply to the show cause was clearly insufficient.

In view of the above, since the petitioner was given only 48 hours time to reply to the show cause, the impugned order dated 14.12.2016 passed by the Respondent No.3 as contained in Annexure-3 and the appellate order passed by the Collector,



Bhagalpur dated 20.04.2018 in Supply Appeal No.137 of 2016-17 as contained in Annexure-5 are quashed and the matter is remanded to the licensing authority, Respondent No. 3 to take a fresh decision in the matter in accordance with law after granting reasonable opportunity of hearing to the petitioner.

Supplies to the petitioner shall be restored forthwith until fresh order is passed by Respondent No. 3.

Writ application is allowed.

(Nilu Agrawal, J)

Arjun/Pragya

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.08.2018
Transmission Date	NA

