

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13436 of 2018

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Sarvesh Kumar Rajak @ Sarvesh Rajak son of Late Mahendra Rajak, resident of Village- Mirachak, P.O. Milki, P.D.S. Dealer of Gram Panchayat Bihpur East, P.S. Bihpur, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Dept. of Food and Consumer Protection, Govt. of Bihar, Patna.
3. The Collector, Bhagalpur, District Bhagalpur.
4. The Sub- Divisional Officer-cum- Licensing Officer, Naugachia, District- Bhagalpur.
5. The District Supply Officer, Bhagalpur, District Bhagalpur.
6. The Block Supply Officer, Bihpur, District Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amrendra Kumar, Adv.

For the Respondent/s : Mr. S. Raza Ahmad- AAG-5

Md. Kamil Akhtar, AC to AAG-5

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

Date: 30-07-2018

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

Petitioner challenges the order dated 23.01.2017 issued by Memo No. 9 by the S.D.O., Naugachia by which P.D.S. Licence No. 24 of 1997 has been cancelled and affirmed in Appeal No. 185 of 2016-17 vide order dated 20.04.2018 by the Respondent No. 3,



Collector Bhagalpur. Petitioner was the P.D.S. licence holder since 1997 and the show cause notice issued by the Respondent-S.D.O., Naugachia provided only two days for filing a reply without giving reasonable opportunity for controverting the allegations of irregularities and illegalities. Petitioner contends that show cause notice granting two days time for filing reply does not amount to reasonable opportunity and held to be bad as held in C.W.J.C. No. 12557 of 2018 passed on 27.07.2018 following the case of Smt. Fulpati Devi Vs. the State of Bihar since reported in 2013 (1) PLJR 718. A specific stand has been taken in paragraph 10 of the writ petition that the impugned order of cancellation of licence has been passed without providing a copy of the enquiry report to the petitioner though the same has been relied upon in the impugned order of cancellation. Such infirmity could not be cured in appeal. He submits that the said action of the respondent authority has been held to be violation of principles of natural justice as held by this Court in C.W.J.C. No. 645 of 2018 vide order dated 03.07.2018.

However, learned counsel for the State submits that in view of the illegalities and irregularities found during inspection, the licence of the petitioner had rightly been cancelled.

Considering the facts and circumstances, the impugned order dated 23.01.2017 as contained in Annexure-3 and the appellate



order dated 20.04.2018, Annexure-4 are quashed and the matter is remanded to the Sub Divisional Officer, Naugachia for taking a fresh decision in the matter after giving a reasonable and sufficient opportunity of being heard and after supplying a copy of the inspection report to the petitioner. Supplies to the petitioner shall be restored without delay until fresh orders are passed by the Respondent No. 4.

This writ application is allowed with the said observations.

(Nilu Agrawal, J)

Devendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2018
Transmission Date	NA

