

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12690 of 2015

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Salha Panchayat Primary Agriculture Credit Sahakari Society Limited Office at village - Salha, P.S. - Desri, Block - Sahadei Bujurg, District - Vaishali through its Chairman Suresh Rai, Son of Aasho Rai, R/o Village - Salha, P.S. - Desri, District Vaishali.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Patna, Bihar.
2. The Registrar Cooperative, State of Bihar, Patna.
3. The District Collector, District - Vaishali.
4. The Sub-Divisional Officer, Mahanar, District - Vaishali.
5. The Block Supply Officer, Block - Sahadai Bujurg, District - Vaishali.

.... Respondents

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Appearance :

For the Petitioner : Mr. Krishna Mohan Mishra, Advocate

For the Respondents : Mr. Sunil Kr. Mandal, SC 3

Mr. Bipin Kumar, AC to SC 3

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 21-08-2018

I.A. No. 6369 of 2018

The interlocutory application has been filed for amendment of the relevant portion of the prayer in the writ petition by adding the following prayer –

*“(i) To quash the order of suspension dated 20.04.2015 contain in Gaypank No. 1304 whereby and where under the respondent Licensing Authority has tagged the distribution ship of the shop of the petitioner with another shop and also stopped supplying of commodities.
(ii) To direct the respondent to restore the PDS License and supply article to the petitioner for public distribution.”*



2. Having regard to the nature of the prayer, the interlocutory application is allowed and the same shall be treated as forming part of the writ petition.

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3. The main writ petition has been filed for the following reliefs –

“(i) To quash the order passed by the respondent Sub-divisional Officer, Mahanar dated 26—05-2015 where under learned Sub-divisional officer has cancelled the license issued in favour of society on the ground that the chairman of the society was implicated in criminal case as such he has closed the PDS shop.

(ii) To issue appropriate writ and declare that the proceeding initiated against the petitioner is void-ab-initio because society being a legal identity cannot be prosecuted and as such the cancellation of licence is void and illegal.

(iii) To hold and declare that the cancellation of licence is wholly illegal and arbitrary because the licence cannot be cancelled on the same ground and reason upon which the suspension was made.”

4. Learned counsel for the petitioner submits that the impugned order of suspension has been passed merely on the ground of institution of the first information report and the impugned order of cancellation dated 26.05.2015 has been passed without, however,



supplying a copy of the enquiry report which has been relied in the said order. Moreover the said order has been passed in violation of the principles of natural justice in view of the second show cause notice dated 26.05.2015 (at page 23) but without awaiting the reply, the order of cancellation has been passed on the very same day.

5. Learned counsel for the respondents appears and submits that the petitioner has alternative remedy by way of appeal which has not been availed of by it.

6. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court finds merit in the writ petition. A categorical stand has been taken in paragraphs 3 and 5 of I.A. No. 6369 of 2018 that the second show cause notice dated 26.05.2015 was issued but the impugned order of cancellation has been passed on the very same day in violation of the principles of natural justice and that a copy of the enquiry report was not supplied to the petitioner prior to passing of the impugned order.

7. In the above view of the matter, the impugned order of suspension dated 20.04.2015 (Annexure-4) and the order of cancellation dated 26.05.2015 (Annexure-1) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Mahanar, District Vaishali for taking decision afresh in the matter after supplying a copy of the enquiry report to the petitioner and granting an opportunity of



hearing in accordance with law. Licence of the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 4.

8. It is made clear that in case the stand of the petitioner denying receipt of the enquiry report prior to order of cancellation being passed is found to be incorrect, the respondents shall be at liberty to approach this Court for recall of this judgment.

9. The writ petition stands allowed as above. I.A. No. 4771 of 2018 stands disposed of.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	23.08.2018
Transmission Date	N.A.

