

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22447 of 2014

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Sita Ram Paswan Aged About 48 Years, Son of Late Shivdani Paswan Resident
of Village - Lohra, P.S.- Harnaut, District - Nalanda

.... Petitioner

Versus

1. The State of Bihar through the Secretary Public Distribution Supply System
Unit, Public Food and Health Department Secretariate, Patna, Bihar
2. The Collector of the District Nalanda at Bihar Sharif
3. The District Supply Officer, Nalanda at Bihar Sharif
4. The Sub Divisional Officer - cum- Licensing Officer, Bihar Shairf, Nalanda
5. The Supply Inspector, Harnaut Block, Nalanda
6. Block Development Officer, Harnaut Nalanda,
7. Investigating Officer

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh,
Mr. Ashok Kumar, Advocates.

For the Respondents : Mr. G.P. Ojha, GP-22

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 12-01-2018

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

2. The present writ petition has been filed for issuance
of writ, order or direction in the nature of certiorari/mandamus,
setting aside/quashing the office order dated 16.09.2013 bearing
Gyapank No. 970/Aa dated 23.09.2013 passed by the respondent no. 4,
Sub-Divisional Officer, Bihar Sharif, Nalanda in Aarop Case No. 06 of
2008, nature supply, whereby and whereunder the office order dated
24.01.2008 passed in the said Case NO. 06 of 2008 by which the P.D.S.
License of the petitioner was cancelled, has been ordered to be
continued while the said office order dated 24.01.2008 was set aside



by the respondent no. 2, the Collector and the matter was remanded back to the respondent no. 4 with certain observation and direction but while passing the said order dated 23.09.2013, the respondent no. 4 has not complied the same.

3. Learned counsel for the petitioner makes a short submission to assail the impugned order on the ground that show cause notice was not issued to the petitioner and he was never given an opportunity of being heard or adducing evidence in that regard. A specific stand has been taken in paragraph-6 of the supplementary affidavit that the impugned order of cancellation of licence has been passed without issuing show cause notice to the petitioner. Thus, there is a clear violation of principles of natural justice

4. Learned counsel for the respondents appears and has been heard. The stand of the petitioner with regard to non-issuance of show cause notice to the petitioner has not been controverted in the counter affidavit filed on behalf of the respondents.

5. In the above view of the matter, this Court is satisfied that non-issuance of show cause notice to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 23.09.2013 (Annexure-1) is quashed and the matter remanded to the Sub-Divisional Officer-cum-Licensing Officer, Biharsharif, Nalanda for taking decision afresh in the matter after issuing show cause notice to the petitioner and granting



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

6. 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.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	24.01.2018
Transmission Date	N.A.

