

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8009 of 2014

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Anjala Khatoon W/o Shamsul Hoda @ Jagga Resident of Village - Chandwar
Tola, P.S. - Angarh, District - Purnea.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Purnea.
2. The Collector, Purnea.
3. The Sub-Divisional Officer, Baisi, Purnea.
4. The Block Supply Officer, Baisi, Purnea.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. N.K.Agrawal, Sr. Advocate

Mr. Radha Mohan Singh, Adv

For the Respondent/s : Mr. Sita Ram Yadav, GP 16

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-07-2018

The present writ petition has been filed for quashing the order dated 30.11.2013 issued vide memo no. 63 dated 30.11.2013 passed by the Sub Divisional Officer, Baisi, Purnea by which the licence of the petitioner being licence no. 49 of 2007 granted under the provisions of P.D.S. Order for carrying on business under Public Distribution System has been cancelled.

2. Mr. N.K. Agrawal, learned Senior Counsel appearing on behalf of the petitioner submits that the impugned order of cancellation has been passed in violation of natural justice as in the special facts and circumstances of the case it cannot be said that a reasonable opportunity has been granted to the petitioner. An FIR was instituted against the accused persons including the husband of the petitioner on 02.11.2013 pursuant to which he was taken into jail custody. A show cause notice has been issued on 22.11.2013 granting a



week's time to respond thereto, but considering the circumstances the petitioner was unable to respond within the stipulated time and was able to file her show cause reply slightly belatedly on 05.12.2013 and in the meanwhile the impugned order has already been passed on 30.11.2013. It has further been submitted that in any event, a copy of the enquiry report was not served upon the petitioner which vitiates the proceeding as being in violation of natural justice.

3. Learned counsel for the respondent appears and submits that the impugned order of cancellation is amenable to appeal, but the petitioner has not preferred the forum of appeal for redressal of her grievance. The stand of the petitioner with regard to non-supply of enquiry report has been specifically controverted in para 16 of the counter affidavit categorically stating that all documents including the enquiry report was supplied to the petitioner.

4. Having heard the parties and on consideration of the materials on record, I am not inclined to interfere in the matter. It is not in dispute that the petitioner who was the licensee of the PDS shop and a show cause notice was duly served on her 20 days after the institution of the FIR. If the petitioner was unable to file her show cause within the time granted under the notice, she could well have applied for extension of time, which was not done. The delay in furnishing the show cause has been sought to be explained on the ground that her husband was in custody. However, it is not the petitioner's case that she filed her show cause belatedly after her husband was released from custody. No satisfactory explanation has therefore been offered for not filing the show cause within time. As regards the stand that a copy of the enquiry report was not made available to the petitioner, the same has been refuted by the respondents and hence this Court does not deem it proper to enter into this controversy of fact. This Court does not find any infirmity apparent



in the decision making process. The writ petition accordingly stands dismissed.

5. It is made clear that this judgment shall not come in the way of the petitioner seeking remedy by way of appeal before the appropriate forum, if so advised.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
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