

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1481 of 2018

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Girdhari Prasad Yadav @ Girdhari Prasad @ Girdhari Yadav Son of Bigan Yadav @ Bigan Yadav Resident of Village-Sandeshwar, P.S.-Fatehpur, Jaipur, District-Gaya.

.... Petitioner

Versus

1. The Principal Secretary, Food and Civil Supplies Department, Bihar at Patna.
2. The Sub-Divisional Officer, Cum Licensing Authority, Sadar Gaya, P.S. Sadar Gaya, District-Gaya.
3. The District Supply Officer, Gaya, District-Gaya.
4. The Assistant District Supply Officer, Gaya, District-Gaya
5. The Assistant Godown Manager, Fatehpur, P.S.-Fatehpur, District-Gaya.
6. The Circle Officer, Fatehpur, P.S.-Fatehpur, District-Gaya

.... Respondents

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Appearance :

For the Petitioner : Mr. Sumeet Kumar Singh, Advocate.
For the Respondents : Mr. S.Raza Ahmad, AAG-5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-02-2018

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

2. The present writ petition has been filed for the following reliefs:

(1) That this is an application for issuance of an appropriate writ order/directions in the nature of Certiorari for quashing the memo no. 735/Go dated 10.11.2017 (Annexure No. 2 to the writ application) passed by the S.D.O., Sadar Gaya, respondent no. 2 by which the licensing authority has been pleased to cancel the Public Distribution License No. 02/16 (Old License No. 03/2007) of the petitioner as there is violation of the National Food Security Act, 2013 and Section 10(3) of the Public Distribution Act, 1955 (hereinafter referred as 'P.D.S Act' for the sake of brevity), other act ad thus the license has



been cancelled under prevention of Black Marketing & Maintenance of Supplies of Essential Commodities Act; on the ground that the petitioner has not been served the copy of the enquiry report or the statement of the charge or ever served the notice;

(II) That this an application for issuance of an appropriate writ order/directions in the nature of Certiorari for quashing the memo no. 735/Go dated 10.11.2017 passed by the S.D.O., Sadar Gaya, respondent no. 2 as there is violation of the principles of natural justice by not supplying the enquiry report or the statement of charge and in a routine manner, the order of cancellation of the P.D.S. dealership has been ordered against the petitioner;

(III) That this is an application for issuance of an appropriate writ order/directions in the nature of Certiorari for quashing the memo no. 735/Go dated 10.11.2017 (Annexure No. 2 to the writ application) passed by the S.D.O., Sadar Gaya, respondent no. 2 as there is no violation of the National Food Security Act, 2013 nor any provisions of the said Act is applicable against the petitioner thus the action taken by the respondent is wholly without jurisdiction and not sustainable in the eye of law;

(IV) That this is an application for issuance of an appropriate writ order/directions in the nature of Mandamus for a direction to restore the Public Distribution License No. 02/16 (Old License NO. 03/2007).

(V) And for any other relief(s) for which the petitioner may be found to be entitled to in the present facts and circumstances of the case."

3. Learned counsel for the petitioner makes a short submission to assail the impugned order on the ground that show



cause notice was not served upon the petitioner nor any copy of the inquiry report or even the statement of charges were given and he was never given any opportunity of being heard or adducing evidence in that regard. A specific stand has been taken in para-16 of the writ petition that the impugned order of cancellation of licence has been passed without serving show cause notice to the petitioner, nor any copy of the enquiry report or even the statements of charges were supplied to him. Thus, there is a clear violation of principles of natural justice.

4. Learned counsel for the respondents appears and has been heard.

5. In the above view of the matter, this Court is satisfied that non-service of the show cause notice to the petitioner; non-supply of the copy of the enquiry report or even the statements of charges to him has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 10.11.2017 (Annexure-2) is hereby quashed and the matter remanded to the Sub-Divisional Officer cum Licensing Authority, Sadar Gaya, District- Gaya, for taking decision afresh in the matter after serving show cause notice and supplying of the copy of the enquiry report as well as the statement of charges 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. 2.

6. It is made clear that in case the stand of the petitioner denying non-service of show cause notice 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/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	23.02.2018
Transmission Date	N.A.

