

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11415 of 2016

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Om Prakash Singh Son of late Ram Jugut Singh resident of Village - Kalyanpur,
P.S. - Bariyarpur, District - Munger.

.... Petitioner

Versus

1. The State of Bihar.
2. The District Magistrate Munger.
3. The Sub Divisional Officer, Sub-Division, Sadar, District - Munger.
4. The Incharge Block Supply Officer Block Bariyarpur cum Circle Officer,
Bariyarpur, District - Munger.

... Respondents

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Appearance :

For the Petitioner : Ms. Sushmita Mishra, Advocate

For the Respondents : Mr. Mritunjay Kumar, AC to AAG10

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 08-02-2018

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

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

“(i) For the issuance of a rule in the nature of writ of certiorari for quashing the order dated 04-3-2016 passed by respondent no. 2, the District Magistrate, Munger in Supply Appeal No. 01/2012-13 whereby and whereunder the aforesaid Appeal preferred by the petitioner against the order dated 19-06-12 passed by respondent no. 3, the Sub Divisional Officer, Sadar contained in memo No. 318 whereby and whereunder the Public Distribution System Licence No. 08/08 (wrongly spelt as 03/08) of the petitioner has been cancelled on the ground of institution of Bariyarpur P.S. Case No. 37/12 dated 23-05-2012 without



service of any show cause notice on the petitioner has been dismissed and the aforesaid order dated 04-03-2016 cancelling the licence of the petitioner has been affirmed.

(ii) For the issuance of a rule in the nature of writ of Mandamus commanding the respondents to follow the provisions of Public Distribution System Control Order, 2001 (for short – The P.D.S. Order) in a just and proper manner.”

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 and he was never given any opportunity of being heard or adducing evidence in that regard. A specific stand has been taken in paragraph 7 of the writ petition that the impugned order of cancellation of licence has been passed without issuing any show cause notice to the petitioner. Such infirmity could not be cured in the appeal as well.

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 has not been controverted, as no counter affidavit has been filed till date even though about two years have elapsed since the writ petition was filed.

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 appellate order dated 04.03.2016 passed by the Collector,



Munger in Supply Appeal No. 01/2012-13 as contained in Annexure-1 and the impugned order dated 19.06.2012 passed by Respondent no. 3 as contained in Annexure-2 are hereby quashed and the matter remanded to the Sub-Divisional Officer, Sadar, District Munger 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. 3.

6. It is made clear that in case the stand of the petitioner denying issuance 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)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.02.2018
Transmission Date	N.A.

