

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15621 of 2017

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Md. Salim, son of Late Ayub, Resident of Village- Firozpur, P.S. Aandar, Block Raghunathpur, District Siwan.

.... Petitioner/s

1. Versus

1. The State of Bihar through Principal Secretary, Department of Food, Supply and Consumer Protection, Patna.
2. The Commissioner, Saran Division, Chapara.
3. The District Magistrate, Siwan.
4. The Sub- Divisional Officer, Sadar, Siwan.
5. Block Supply Officer, Raghunathpur, Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ansul, Adv.

Md. Sufyan, Adv.

For the Respondent/s : Mr. Anisul Haque, Ac to AAG-5

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

Date: 13-08-2018

Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

Petitioner challenges the order passed by the Sub Divisional Officer, Siwan Sadar by Memo No. 1295 dated 15.12.2015 by which the PDS Licence No. 842 of 2007 was cancelled on the inquiry of the Block Supply Officer who conducted an inspection on 01.04.2015 and found certain irregularities and illegalities and also that some of the beneficiaries had complained of less supply or no supply. Petitioner also challenges the order passed by the D.M., Siwan



in Supply Appeal No. 62 of 2015-16 dated 29.03.2016 and order of the Commissioner, Saran Division, Chapra in Supply Revision No. 83 of 2016 dated 31.07.2017 by which his cancellation of PDS licence passed by the Licensing Authority has been affirmed.

Learned counsel for the petitioner submits that a show cause dated 15.04.2015 was served on the petitioner showing such irregularities and also that the beneficiaries had complained of less supply and no supply. He submits that no enquiry report and list of beneficiaries who had complained against him was ever supplied and the impugned order of cancellation has been affirmed by the appellate and revisional court.

Learned counsel for the State has filed counter affidavit stating therein that the irregularities had been found and show cause notice was issued and no prejudice has been caused to the petitioner due to non-supply of enquiry report. Since, the list of beneficiaries who had complained against the petitioner as well as the enquiry report which was the basis of show cause has not been supplied, the decision making process stand vitiated on account of violation of principles of natural justice. The cancellation order was passed without supplying the enquiry report and list of beneficiaries who had complained. Once the substratum has been found to be not in accordance with law the superstructure by way of appeal and revision



cannot cure such violation.

This writ application is allowed. The matter is remanded to the Sub Divisional Officer to issue show cause notice in accordance with law after complying the principles of natural justice. The supply to the petitioner be restored forthwith.

(Nilu Agrawal, J)

Devendra/-

AFR/NAFR	NAFR
CAV DATE	NA
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