

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10083 of 2017

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Ram Prasad Saw, S/o Dargahi Saw, R/o Village Eraura, P.S.-Deo, District-
Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary
2. The Principal Secretary, Food & Civil Supplies, Govt. of Bihar, Patna.
3. The District Magistrate, Cum Collector, Aurangabad
4. The District Supply Officer, Aurangabad
5. The Sub Divisional Officer, Aurangabad
6. The Block Supply Officer, Deo Block, District-Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh

For the Respondent/s : Mr. SANJAY KR.GIRI-GP9

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

Date: 14-08-2018

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

Petitioner challenges the order dated 12.10.2011 passed
by the Sub-Divisional Officer, Aurangabad by which his License
No. 6/D/1989 has been cancelled and has been affirmed by the
Collector, Aurangabad in PDS Appeal No. 23 of 2012 vide order
dated 16.08.2014.

Learned counsel for the petitioner submits that on the
inspection dated 25.08.2011 at 12:25 pm conducted by the Block
Supply Officer, Deo certain irregularities were found such as the



PDS shop was found closed, the display board was not found outside the shop and for July, 2011, the food-grains were not distributed to the beneficiaries. Petitioner filed his show cause reply but finding it unsatisfactory his PDS licence was cancelled by the Licensing Authority, Sub-Divisional Officer vide order dated 12.10.2011. His appeal before the Collector met with the same fate.

From perusal of order of learned Collector dated 16.08.2014, it is clear that nine beneficiaries had given coupon of non supply to the Block Supply Officer, who had conducted the enquiry on 25.08.2011, but it has been submitted by the learned counsel for the petitioner that neither the coupons of nine beneficiaries nor their names were supplied nor the enquiry report was served to the petitioner, hence, it amounts to violation of principles of natural justice.

However, learned counsel on behalf of the State submits that the order of cancellation was passed on 12.10.2011 and the order affirming the cancellation has been passed by the Collector on 16.08.2014 and the petitioner has filed the writ application only in the year 2017. Hence, on the ground of delay and laches, this writ application is fit to be dismissed. He further submits that there is a provision of appeal under the Act, which the petitioner



has not availed.

From perusal of the cancellation order and the appellate order, it appears that the enquiry conducted by the Block Supply Officer on 25.08.2011, there were nine beneficiaries who had given coupon of non-supply of essential commodities by the PDS shop of the petitioner for the month of July, 2011.

However, neither the enquiry report nor the complaint of the beneficiaries has been supplied to the petitioner which amounts to violation of principles of natural justice. Since non-supply of enquiry report and the list of beneficiaries who had complained against the petitioner not being supplied to the petitioner vitiates the decision making process, hence, when the substratum is in violation of principles of natural justice the superstructure whether by way of appeal could not cure such violation of principles of natural justice.

Since the order has been passed cancelling the licence without complying the provisions of natural justice which has civil consequences of taking away the right of livelihood of the petitioner, this writ application is allowed. The matter is remanded back to the Sub-Divisional Officer, Aurangabad to comply the provisions of natural justice and issue show cause enclosing the list of beneficiaries who had complained along with the enquiry report



and pass an order in accordance with law. Till then the supply to be restored to the petitioner forthwith.

This writ application is allowed accordingly.

(Nilu Agrawal, J)

Devendra/Priyanka

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.08.2018
Transmission Date	NA

