

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11415 of 2018

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Binod Kumar S/o Late Prabhu Lal Resident of Sahadhra, P.S. Malsalami,
District – Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Patna.
2. The Collector, Patna.
3. The Sub Divisional Officer Patna City, Patna.
- 4.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Advocate
		Mr. Dhananjaya Nath Tiwari, Advocate
For the Respondent/s	:	Mr. Arvind Ujjwal- SC4

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT

Date : 27-07-2018

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

Petitioner seeks quashing of the order dated 24.02.2016
contained in Memo No. 23 passed by the learned Sub Divisional
Officer, Patna City by which the PDS licence of the petitioner
being licence No. 168 of 2008 has been cancelled. He also seeks
quashing of the order dated 05.04.2018 passed by the learned
Collector-cum-District Magistrate, Patna dismissing E.C. Appeal
No. 49 of 2015-16.

The facts of the case is that on the basis of a complaint
made by the consumers against the petitioner that there was
irregularities in the distribution by the petitioner, who was the PDS



dealer, an enquiry was conducted and finding certain irregularities, show cause notice was issued to the petitioner vide Memo No. 61 dated 13.01.2016, as contained in Annexure-1 to this application, which was not received by the petitioner. Accordingly, a second show cause notice alleging some irregularities was issued to the petitioner on 17.02.2016, as contained in Annexure-2 against which the petitioner filed a reply stating specifically that the complaint of the consumers without any affidavit would not be treated as a piece of evidence. Finding the reply unsatisfactory, Annexure-4 dated 24.02.2016 has been issued by the learned Sub Divisional Officer, Patna City cancelling the PDS licence of the petitioner. The appeal of the petitioner met with the same fate wherein the appellate authority vide Annexure-5 dated 05.04.2018 has dismissed the appeal being E.C. Appeal No. 49 of 2015-16.

Learned counsel for the petitioner submits that no enquiry report was served to him along with the show cause notice, as such the petitioner could not know the contents thereof, which is violation of principles of natural justice. In this connection reliance has been placed to the case of Krishna Kumar Srivastava Versus The State of Bihar since reported in 2013 (3) PLJR 249 wherein it has been specifically held that if show cause notice is issued to a PDS dealer by the licensing authority where



there is a complain regarding non- supply and inadequate supply of foodgrains and of charging higher amount than the prescribed, names of such consumers/beneficiaries should be furnished to the dealer and if any enquiry report has been submitted, copy of such statement should also accompany the show cause. This basic requirement of fair play in action is only for compliance of principles of natural justice. If the show cause notice is vague and does not contain particulars in support of the allegations and is not accompanied by the materials, such as enquiry report and the complaint of the consumers/beneficiaries, the same would be termed as giving inadequate opportunity to the PDS licence holder. Such violation of principles of natural justice cannot be sustained in the eye of law.

In the circumstances order dated 24.02.2016, Annexure-4 passed by the learned Sub Divisional Officer, Patna City and the appellate order dated 05.04.2018, Annexure-5 passed by the learned Collector-cum-District Magistrate, Patna in E.C. Appeal No. 49 of 2015-16 are set aside and the matter is remitted back to Respondent No. 3 to proceed in accordance with law.

It goes without saying that supplies would be restored forthwith but if it is brought to the notice of this court that enquiry



report had been served on the petitioner, the respondents shall be at liberty to approach this Court for recall of this judgment.

The writ petition stands allowed as above.

(Nilu Agrawal, J)

Arjun/Pragya

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

