

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24631 of 2018

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Surendra Prasad @ Surendra Yadav son of Parmeshwar Yadav Resident
of Village - Sitapur, P.S.-Roh, District- Nawada

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Food & Civil Department, Government of Bihar, Patna.
2. The State Principal Secretary, Food and Civil Supplies Department Government of Bihar, Patna.
3. The Commissioner, Patna Division, Patna
4. The District Magistrate, Nawada
5. The Sub Divisional Officer, Rajauli, Nawada
6. The Block Supply Officer, Roh

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Saket Tiwary, Advocate Mr. Deepak Kumar, Advocate Mr. Anuraj Singh, Advocate
For the Respondent/s	:	Mr. Anisul Haque, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 04-11-2019 Perused the report received from the learned Registrar General. The dealing Assistant is himself present and has submitted that he will be careful in future and there will be no inconvenience to the court.

Let the inquiry report be accepted, however for the present, no further action is required considering the submission of the dealing Assistant Mr. Rahul Kumar.

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



The petitioner is challenging the order dated 05.06.2018 passed in Case No. 195/197/(M)2013 by the Collector, Nawada (respondent no. 4), has dismissed the appeal preferred by the petitioner for setting aside the order dated 19.05.2012 passed by the Sub-Divisional Officer, Rajauli. By the impugned order the Sub-Divisional Officer, Rajauli had cancelled the licence of the Public Distribution System Shop of the petitioner.

Learned counsel for the petitioner submits that initially a show cause notice was issued to the petitioner, copy of which is enclosed as Annexure '3' to the writ application. In the said show cause notice, the petitioner was called upon to explain the allegations on three counts. The first allegation was that the Public Distribution System Shop was closed without any information, the second allegation was that the kerosene oil is being distributed among the consumers either irregularly or not at all and the third allegation was that the coupons of Antyodaya and BPL Scheme for the month of June 2011 and 2nd May, 2012 were in possession of the consumers which show that the food-grains were not being distributed among them.



Learned counsel submits that the petitioner had submitted an explanation to the show cause notice and in his explanation he had informed that on the date of inspection at about 11.30 A.M. he had gone to see his ailing wife in the Nursing Home at Nawada with an information left on the notice board in this regard, and therefore, this alone cannot be a ground for cancellation of licence.

As regards distribution of kerosene oil, it was submitted that after lifting the kerosene oil he was distributing the same in presence of the members of the Vigilance Committee and the same were provided to the consumers in accordance with their entitlement mentioned in the coupons. He sought a liberty to produce the consumers and the members of the Vigilance Committee in course of Inquiry.

As regards the third allegations, the petitioner submitted that the Public Distribution System Shop dealer of village – Ratoi had been placed under suspension and the consumers attached with the said shop were attached with the shop of the petitioner. The petitioner had lifted kerosene oil for the consumers of the said shop only from the month



of February 2012 and the same had been distributed as per coupons.

It is the grievance of the petitioner that after submission of the reply, the Sub-Divisional Officer, Rajauli did not conduct any verification and inquiry in the matter, he simply called for a comment from the Block Supply Officer, Roh and on receipt of the comment of the Block Supply Officer saying that the petitioner is a musclem and has no interest in distribution of the food-grains among the consumers, passed an order for cancellation of licence merely by acting upon the recommendation of the Block Supply Officer. It is further submitted that the Appellate Authority did no better as he just acted upon the observations of the Sub-Divisional Officer, Rajauli and by taking a view without considering the grounds raised by the petitioner in the appeal. It is for all these reasons, learned counsel submits that the impugned orders are, therefore, liable to be set-aside.

Learned counsel for the State has though opposed the writ application and a counter affidavit has been filed to contest the same, this court finds on perusal of the counter



affidavit that after issuance of the show cause notice and submission of the explanation by the petitioner, the Sub-Divisional Officer, Rajauli has not conducted any inquiry and no verification on facts have been done before arriving at a conclusion leading to cancellation of the licence of the petitioner. In the counter affidavit, there is no statement that even the comments of the Block Supply Officer was made available to the petitioner. All that appear is that the impugned orders have been passed without conducting an inquiry with regard to the allegations.

After hearing learned counsel for the petitioner and learned counsel representing the State as also on a careful perusal of the materials available on the record, this court is of the considered opinion that in want of proper inquiry and verification of the allegations, the impugned orders suffers from non-observance of the established procedure of law and for such violation of the procedures, the impugned orders have been rendered illegal and those are liable to be set-aside on the ground of violation of principles of natural justice alone.

In result, the impugned orders as contained in



Annexure '1' and '2' are hereby set-aside.

The matter is remitted to the Sub-Divisional Officer, Rajauli, Nawada (respondent no. 5) to examine the matter afresh and pass an appropriate order after giving an appropriate opportunity to the petitioner to place on record all such materials which he desires to support his explanation. The Sub-Divisional Officer, Rajauli, Nawada shall conduct an independent inquiry and pass an appropriate order within a period of 90 days from the date of receipt/production of a copy of this order.

The Writ Application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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