

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4980 of 2019

=====

Yugal Kishor Sah son of Rama Shish Sah, Resident of Village- Sursand
Uttari, Ward No. 3, P.S. Sursand, Block- Sursand, District- Sitamarhi.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Old Secretariat, Government of Bihar, Patna.
2. The District Magistrate Sitamarhi.
3. The Sub- Divisional Officer Block- Pupri, Sitamarhi.
4. The District Supply Officer Sitamarhi.
5. The Block Supply Officer, Sursand Sitamarhi.

... .. Respondents

=====

Appearance :

For the Petitioner/s : Mr.Ashhar Mustafa, Advocate
For the Respondent/s : Mr.Arvind Ujjwal (Sc4)

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 29-07-2019 Heard learned counsel for the petitioner and learned
counsel representing the State.

Petitioner in the present case is aggrieved by the order dated 29.01.2019 issued by the Sub-Divisional Officer, Pupari by which the P.D.S. Shop license of the petitioner has been cancelled. Learned counsel for the petitioner submits that it would appear from perusal of the show cause notice as contained in Annexure '1' to the writ application that the entire



allegations are based on a report of the District Supply Officer, Sitamarhi as contained in his letter No. 777 dated 20.08.2018. It is submitted that copy of the report of the District Supply Officer, Sitamarhi based on which the impugned action was proposed to be taken had not been enclosed with the show cause notice and for that reason the show cause notice has not showing any enclosure to the same.

Learned counsel further submits that the petitioner had submitted a detailed reply to the licensing authority which was sent to the Block Supply Officer, Sursand for his comment. The Block Supply Officer, Sursand vide his letter dated 03.01.2019 submitted a report making certain allegations, however, such report was again not made available to the petitioner. It is submitted that if the impugned order of the licensing authority is wholly based on the two reports which are mentioned in the impugned order, it was incumbent upon him to provide copy of those reports to the petitioner and if it was not done, the impugned order is liable to be set aside on the ground of violation of the principles of natural justice.

Learned counsel for the State is present and submits that on the face of the impugned order where it appears that show cause of the petitioner has remained unconsidered and the



reports of the Block Supply Officer, Sursand was also not provided to him, the matter may be remitted to the Sub-Divisional Officer, Pupari for a fresh consideration after providing copies of the enquiry report to the petitioner and by giving an appropriate opportunity of hearing to him.

Having heard learned counsel for the petitioner and the State, in the given facts and circumstances of the case, where it appears from the impugned order that the explanation submitted by the petitioner has not at all been considered by the licensing authority and he has simply proceeded to pass the impugned order on the basis of report submitted by the Block Supply Officer, copy of which was not supplied to the petitioner, this Court is of the considered opinion that the impugned order is liable to be set aside. It is accordingly set aside and the matter is remitted to the Sub-Divisional Officer, Pupari for a fresh consideration of the entire matter after giving an appropriate opportunity of hearing to the petitioner. The petitioner shall also made available the copy of the report dated 27.08.2018 as well as the report dated 03.01.2019. Let the whole exercise be completed within a period of 90 days from the date of receipt/production of a copy of this order.

In the meantime, the license and supplies of the



petitioner shall stand restored.

This writ application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

vats/ved

U			
---	--	--	--

