

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12000 of 2019

=====

Md. Akhtar Hussain S/o Bechan Ali, R/o-Village/Mohalla-Dhusmal, Block-Baisa, P.O.-P.S.-Angar, Sub-Division-Baisi, District-Purnea

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Food and Civil Supply Government of Bihar, Patna.
2. The Principal Secretarty Food and Civil Supply, Bihar, Patna.
3. The District Magistrate, Purnea.
4. The District Supply Officer, Baisa, Purnea.
5. The Sub-Divisional Officer, Baisi, Purnea.
6. The Block Supply Officer, Baisi.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Advocate.
	:	Mr. Rajiv Ranjan Advocate.
For the Respondent/s	:	Mr.Upendra Pratap Singh, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 27-07-2019 Heard learned Senior Counsel for the petitioner and

learned counsel for the State.

Petitioner in the present case aggrieved by the order as contained in Memo No. 226 dated 18.01.2019 passed by Sub-Divisional Officer, Baisi, Purnea (Annexure-4) by which the license of the P.D.S. shop of the petitioner has been cancelled.

Learned senior counsel representing the petitioner submits that in this case when the explanation was submitted by the petitioner the same was sent to the Block Supply Officer for his opinion and the Block Supply Officer sent his opinion which



was made basis of passing of the impugned order. It is submitted that at no point of time either the Sub-Divisional Officer himself enquired into the matter or gave a consideration to the show-cause of the petitioner. The Block Supply Officer before recording his opinion did not call upon the petitioner to participate in the enquiry.

It is submitted that what was the opinion of the Block Supply officer has also not been made available to the petitioner for his reply. In these circumstances, it is the submission that the issuance of show-cause notice was merely an empty formality as everything has been done behind the back of the petitioner and the impugned order has been passed.

Learned counsel for the State has after going through the impugned order submits that the matter may be remitted to the Sub-Divisional Officer Baisi, Purnea for fresh consideration.

In the given facts and circumstances of the case where it is apparent from the perusal of the impugned order that the Sub-Divisional Officer has not conducted any inquiry himself and has only relied on the inquiry said to have been conducted by the Block Supply Officer, whose report has been made basis of passing of the the impugned order, the impugned order suffers from violation of principles of natural justice.



It is an admitted position that in course of inquiry the Block Supply Officer, did not call upon the petitioner, to participate and even his report was not made available to the petitioner. The Impugned order is thus, set aside. The matter is remitted to the Sub-Divisional Officer, Baisi, Purnea for fresh consideration of the entire materials in accordance with law and after giving copies of the report and all other materials to the petitioner with an opportunity to controvert the report.

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 supply of the petitioner shall stand restored.

The writ application stands disposed of.

(Rajeev Ranjan Prasad, J)

T.Kr./-Rajeev

U			
---	--	--	--

