

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14470 of 2018

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Nijammuddin Ansari aged about 79 years, Son of Late Sadique Ansari, resident of Village- Chaungain, P.S.- Murar, P.O.- Chaungain, District- Buxar Bihar.

... .. Petitioner

Versus

1. The State Of Bihar through Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Collector Cum District Magistrate, Buxar.
3. The Sub-Divisional Officer, Dumraon.
4. Block Supply Inspector, Chaungain.
5. The Block Development Officer, Chaungain.
6. The Anchal Adhikari, Chaungain.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Satish Kumar, Advocate
For the Respondent/s : Mr.Arvind Ujjwal- SC-4
Mr. U.P. Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 23-01-2019

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

Petitioner, in the present case, has challenged
the order dated 09.05.2018 passed by the District
Magistrate, Buxar in Case No. 239 of 2017 as contained in
Annexure-6 as well as the order dated 31.10.2017 passed



by the Sub-Divisional Officer, Dumraon as contained in Annexure-5, by which the PDS license of the petitioner has been cancelled.

Learned counsel for the petitioner has raised a short point for consideration of this court. Learned counsel submits that from a perusal of the show cause notice as contained in Annexure-A to the counter affidavit of the State, it would appear that prior to issuance of the show cause notice there was some kind of inquiry on the complaint lodged by the beneficiaries with regard to the illegalities being committed in the matter of distribution of the ration, but copy of the said inquiry report was not made available to the petitioner. It is submitted that the writ application is fit to be allowed on this ground alone.

On the other hand, learned counsel representing the State submits that a perusal of the letter no. 70 dated 01.10.2016 along with its enclosures as contained in Annexure-G to the counter affidavit, it would appear that the Block Supply Inspector, Chaugain had informed the Sub-Divisional Officer, Dumraon about the illegalities and



irregularities in the matter of distribution of rations to the beneficiaries. The Block Supply Inspector had enclosed a copy of the complaint received from some of the beneficiaries who had informed that they were not provided rations during the last seven months.

Learned counsel further points out from appellate order that it records certain admitted facts which have not been controverted by the petitioner in the writ application. It is submitted that any one of the findings recorded in the appellate order would be sufficient to sustain the order of cancellation of license of the petitioner.

After hearing learned counsel for the parties and on perusal of the records, this court finds that the show cause notice calling upon the petitioner to show cause as to why the license of his shop be not cancelled was issued by the Sub-Divisional Officer, Dumraon on 05.09.2016 with reference to letter no. 50 dated 13.08.2016 written by the Block Supply Inspector. The show cause notice dated 5th September, 2016 did not contain any enclosures meaning thereby that the copy of letter no. 50 dated 13.08.2016



written by the Block Supply Inspector, Chaugain to the Sub-Divisional Officer, Dumraon was not made available to the petitioner. The petitioner submitted his reply on 16.08.2016 vide Annexure-C to the counter affidavit, thereafter comment was called for from the Block Supply Inspector who responded vide his letter no. 66 dated 14.09.2016. Again Block Supply Inspector, Chaugain vide his letter no. 70 dated 01.10.2016 (Annexure-G to the counter affidavit) sent the copy of the complaint containing a recital that these were the statements of the beneficiaries of the *Mushar* caste which were taken on 27.09.2016. There is no statement either in the counter affidavit or in any of the enclosures to the counter affidavit that the copy of these complaints and the letter of the Block Supply Inspector dated 01.10.2016 were ever brought to the notice of the petitioner giving him an opportunity to respond.

In course of hearing this court initially attempted to know from learned counsel for the petitioner as to whether the issue that copy of the inquiry report was not made available to the petitioner was ever raised before the



Sub-Divisional Officer or the District Magistrate, learned counsel for the petitioner pointed out that though the issue was raised but it is not so reflecting in the impugned orders.

Learned counsel has drawn attention of this court towards the statement made in paragraph-13 of the writ application wherein a statement has been made that the appellate authority as well as licensing authority had passed arbitrary and illegal order and as no inquiry report was made available to the petitioner the impugned orders are not sustainable.

This court finds that the statements made in paragraph-13 of the writ application has not been specifically controverted in the counter affidavit, rather what transpired from the statements made in paragraph – 24 of the counter affidavit is that there is a statement that *"The enquiry report submitted by the Block Supply Inspector is based on findings arrived and deduced on the records and the statement of consumers."* If this is the reply of the State in its counter affidavit, this court will take a view that an inquiry report was prepared by the Block Supply Inspector in which he



recorded certain findings which are said to be based on the statement of consumers, but the copy of the said inquiry report was never made available to the petitioner.

From the pleadings available on the record, this court comes to a conclusion that the impugned orders suffers from violation of principles of natural justice, thus those are liable to be held bad in law.

In result, Annexure- 5 and 6 are hereby set aside. The matter is remitted to the Sub-Divisional Officer, Dumraon for a fresh consideration of the matter after giving appropriate opportunity of hearing to the petitioner. The Sub-Divisional Officer, Dumraon shall be obliged to make available copy of the inquiry report in which the findings has been recorded against the petitioner so that the petitioner can get an opportunity to controvert those findings in order to satisfy the Sub-Divisional Officer, Dumraon. The Sub-Divisional Officer, Dumraon shall thereafter take an independent view of the matter and pass a reasoned order. The whole exercise must be completed within a period of 90 days from today.



This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

Rajeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	23.01.2019
Transmission Date	

