

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18371 of 2018

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Kailash Yadav @ Kailash Kumar Yadav S/o Late Bishwanath Yadav, Resident of Village- Narayanpur, P.S.- Nauhatta, District- Saharsa, Manager of Primary Agriculture Credit Co-operative Society Ltd. Sataur, Panchayat- Sataur, P.S.- Nauhatta, District- Saharsa.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Collector, Saharsa.
3. The Sub Divisional Officer, Saharsa.
4. The Block Supply Officer, Nauhatta, Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjaya Nath Tiwari
For the Respondent/s : Mr.Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 06-10-2020 Heard both sides.

The matter has been taken up through video conferencing.

The petitioner, in this writ petition, seeks quashing of the order dated 19.11.2016, as contained in memo No. 2349 (Annexure-3) by which PDS license of the petitioner being license No. 21/2011 has been cancelled. The petitioner further seeks quashing of the order dated 08.03.2018 passed by the Collector, Saharsa in Supply Appeal Case No. 08/2016 (Annexure-4) by which the Collector dismissed the appeal of the petitioner and confirmed the order passed by the Sub divisional Officer, Saharsa canceling the license of the



petitioner.

The learned counsel for the petitioner submits that petitioner was called upon vide Annexure-1 to show cause as to why the license of the petitioner should not be cancelled. The notice states that Smt. Renu Devi, Ward Member, Ward No.3 and 27 beneficiaries have complained orally and written about the non distribution of food grains to them. They have also complained about the use of unparliamentary language against the beneficiaries. It is submitted that enquiry was held on the allegation of Renu Devi and 27 other beneficiaries but the enquiry report is not annexed with the notice calling upon the petitioner to show cause. It is further submitted that petitioner filed the show cause stating therein that Renu Devi and other beneficiaries belonged to rival group of a political party and they did not come to take food grains but made complaint, therefore, the food grains are still kept in the godown. The godown of the petitioner was never inspected. It is submitted that no enquiry report was attached with the show cause and this court in a number of judgements, one of which is reported in 2013 (3) PLJR 249 (Krishna Kumar Srivastava v. the State of Bihar), held that if enquiry report and statements of the complainants are not attached with the notice calling upon the



licensee to show cause the licensee shall not be able to give his satisfactory show cause and on such if the license of the licensee is cancelled the same shall vitiate. The appellate authority also did not consider the grounds of the petitioner and dismissed the appeal.

The learned counsel for the State submits that admittedly no enquiry report and statement of the complainants are attached with the notice calling upon the petitioner to show cause and it would be better to remit the matter to the S.D.O. to take action afresh, in accordance with law.

Having heard the both sides and on perusal of the records, it appears that by Annexure-1 the S.D.O., Saharsa on 01.09.2016 called upon the petitioner to show cause on the complaint made by Renu Devi and 27 other beneficiaries as to why the PDS license of the petitioner be not cancelled but from perusal of the notice, it appears that neither the statements of the complainants nor the enquiry report is attached with the notice and it would certainly prejudice the case of a licensee who has to file show cause and a licensee in absence of such documents cannot give satisfactory reply. It has been held by this court in the case reported in 2013 (3) PLJR 249 that the enquiry report and the statement of the complainants must be accompanied



with the show cause notice otherwise the case of the licensee would be prejudiced and he shall not be able to give satisfactory explanation and on such if the license of the licensee is cancelled the same shall vitiate. Therefore, I find that the order dated 19.11.2016, as contained in memo No. 2349 (Annexure-3) is illegal on account of non supply of relevant documents with the show cause. The appellate order dated 08.03.2018 passed by the Collector, Saharsa in Supply Appeal Case No. 08/2016 (Annexure-4) is also fit to be quashed as the same has been passed without considering the grounds of the petitioner. Accordingly, both the orders (Annexure-3 and Annexure-4) are set aside.

The writ petition is allowed.

The matter is remitted to the Sub Divisional Officer, Saharsa to proceed in accordance with law.

(Prabhat Kumar Jha, J)

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