

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7860 of 2020

Shivraj Rai, Son of Bhagwan Rai, Resident of Village - Semra, P.S.- Barhara,
District- Bhojpur at Ara.

... .. Petitioner/s

Versus

1. The State of Bihar, through the District Magistrate, Ara.
2. The Sub-Divisional officer, Sadar Ara, District- Bhojpur at Ara.
3. The Block Supply Officer cum Additional Sub-divisional officer, Jagdishpur District- Bhojpur at Ara.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Advocate Mr. Manoj Kumar Pandey, Advocate
For the Respondent/s	:	Mr. Gyan shankar AC to GP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 16-10-2020 Heard Mr. N.K. Agrawal, learned senior counsel for
the petitioner and the respondents.

The only issue involved in the present writ application is whether the requirement of issuance of notice is an empty formality or it is required to ensure fair decision and compliance of principles of natural justice.

From the pleadings available on record, it appears that notice was issued on 23.05.2020 and served to the petitioner on 03.06.2020.

Learned counsel appearing on behalf of the petitioner with reference to Annexure-2 submits that the notice was actually received on 03.06.2020 and the impugned order was



passed on 04.06.2020. The requirement of notice is not an empty formality, but was necessary to ensure fair decision after providing reasonable opportunity to the petitioner.

2nd show-cause notice was issued on 01.06.2020, which was received by the petitioner on 06.06.2020. In the counter affidavit, stand has been taken by the respondents that notices were issued but there is no statement in the counter affidavit that when the notice was actually served.

On the basis of materials available on record, the Court has reason to believe that notice, which was required to be effectively served on the petitioner, was belatedly served only 24 hours ahead the decision. Such action of the respondents does not satisfy the requirement of compliance of principles of natural justice and fair play.

In view of the above, the Court is constrained to allow the writ application. Accordingly, the writ application is allowed. The order as contained in Annexure-1 is hereby quashed.

Since the Court has interfered with the impugned order on the ground of non-compliance of principles of natural justice. The consequence would be that the respondents have to take fresh decision with regard to action against the petitioner.



Automatic restoration of P.D.S. license of the petitioner on account of allowing the writ application will not be applicable in this case, rather it will depend upon the fresh decision of the respondents after reasonable opportunity of hearing to the petitioner.

(Anil Kumar Upadhyay, J)

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