

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15401 of 2019

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Ajay Kumar @ Ajay Paswan son of Moti Paswan Resident of Village- Churi,
Village Panchayat- Churi, Police Station- Chandauti, District- Gaya.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumers Protection, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub- Divisional Officer, Sadar Gaya.
4. The Block Supply Officer, Town Block, District- Gaya.

... .. Respondents

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Appearance :

For the Petitioner : Mr.Binay Kumar, Adv.

For the Respondents : Mr.S. Raza Ahmad (Aag5)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 05-03-2020 The present writ petition has been filed for quashing the order dated 08.07.2019 passed by the Sub-Divisional Officer, Sadar Gaya, whereby and whereunder the PDS license of the dealership of the petitioner bearing license No. 46 of 2016 has been cancelled.

The short issue raised by the learned counsel appearing for the petitioner is that a bare perusal of the last page of the impugned order dated 08.07.2019, would show that an enquiry team was constituted by the Sub-Divisional Officer, Sadar Gaya on 21.06.2019 which had conducted an inspection of the shop of the petitioner on 22.06.2019, and irregularities were confirmed. It is submitted that the said enquiry report dated 22.06.2019, has not been supplied to the petitioner, hence,



the petitioner has been precluded from submitting his wholesome defence, thus the principles of natural justice have been violated. In this regard the learned counsel for the petitioner has relied on a judgment reported in 2013 (2) PLJR 706 (Brahmadeo Rai Vs. the State of Bihar and Ors.). It is further submitted that it is obvious from the show cause notice dated 21.06.2019 that the enquiry report dated 22.06.2019 could not have been supplied to the petitioner along with the show cause since the same was not in existence on the date of issuance of the show cause. It is further submitted that a bare perusal of show cause notice dated 29.06.2019 would show that only the statements of the consumers were enclosed therewith and reference was made to the show cause notice dated 21.06.2019 and supply of enquiry report therewith, however, there is no whisper about the enquiry report dated 22.06.2019.

The learned counsel for the respondents has not been able to deny the fact that the enquiry report dated 22.06.2019 has not been supplied to the petitioner herein, however, he submits that ample opportunity was granted to the petitioner to file his show cause reply and the enquiry report dated 19.06.2019 has stood supplied to the petitioner.

I have heard learned counsel for the parties and considered the materials on record and I find from a bare perusal of the



impugned order dated 08.07.2019 that the Sub-Divisional Officer, Sadar Gaya has constituted a fresh committee vide order dated 21.06.2019 and the said enquiry committee had conducted a fresh enquiry in the shop of the petitioner on 22.06.2019 and the petitioner was found to have been indulging in various irregularities, hence, this Court finds that the said enquiry report dated 22.06.2019 ought to have also been supplied to the petitioner in order to give him an opportunity to put forth his defence, and in absence thereof, the principles of natural justice have definitely been violated.

Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, I deem it fit and proper to quash the impugned order dated 08.07.2019 passed by the Sub-Divisional Officer, Sadar Gaya, being unsustainable in the eyes of law, however, with liberty to the learned SDO, Sadar Gaya to proceed afresh in the matter, after supplying a copy of the enquiry report dated 22.06.2019 to the petitioner herein as also granting him an opportunity to file appropriate objection/reply, afresh.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

K.K.RAO/-

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