

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18841 of 2019

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Ganesh Manjhi, aged about 60 years, S/o Late Ramehswar Manjhi, Resident of Village- Purainiya, P.S.- Minapur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Collector, Muzaffarpur.
3. The Sub Divisional Officer (East), Muzaffarpur.
4. The Block Supply Officer, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Senior Advocate
For the Respondent/s : Mr. Alok Ranjan, A.C. to A.A.G.5

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 25-11-2020 Heard Mr. N.K. Agrawal, the learned Senior Counsel

for the petitioner and Mr. Alok Ranjan, the learned A.C. to A.A.G.

5 through video conferencing.

The petitioner in this writ petition seeks quashing of the order passed by the Sub-divisional Officer, (East), Muzaffarpur, as contained in Memo No.187, dated 23.02.2018, whereby the Sub-divisional Officer cancelled the PDS licence of the petitioner. The petitioner further seeks quashing of order dated 02.07.2019, passed in Supply Appeal No.03/2018-19, by the District Magistrate-cum-Collector, Muzaffarpur by which the Collector, Muzaffarpur dismissed the appeal of the petitioner reiterating the same grounds on which the licence of the petitioner has been cancelled.



Mr. N.K. Agrawal, the learned Senior Counsel for the petitioner submits that the petitioner was issued show cause notice as contained in Annexure-1. From perusal of show cause notice as contained in Memo No.109, dated 12.02.2018, it would appear that altogether 12 allegations are made against the petitioner. It is submitted that from the show cause notice, it is apparent that Assistant Collector-cum-Block Supply Officer, Minapur inspected the shop of the petitioner and submitted report on 07.02.2018. The shop was found closed and many other irregularities were also found. It is one of the allegations that many consumers/beneficiaries were given less amount of grains or they were not given any grains. In place of five units food grains, only four units was given. The petitioner filed detailed show cause. It is submitted that the show cause notice must accompany the enquiry report and statements of the consumers/beneficiaries who are alleged to have made allegations of irregularity in distribution of food grains but neither the enquiry report nor the statements of any of the beneficiaries were attached with the show cause notice. In absence of such materials, the effective explanation cannot be given. The petitioner although filed detailed show cause but from perusal of the order (Annexure-3), passed by the Sub-divisional Officer cancelling the licence of the petitioner, it would appear that the order is cryptic, non-speaking and the show cause has been



rejected but the reasons for rejecting the show cause or the defence has not been given and, therefore, the order is bad and amounts to pass in violation of principles of natural justice as no sufficient opportunity was given to the petitioner since the show cause does not accompany the enquiry report and the statements of the beneficiaries who are alleged to have made allegation of irregularity in distribution of food grains. It is further submitted that the order of the Collector (Annexure-4) also suffers from the same vice and illegality and both the orders are fit to be set aside.

Mr. Alok Ranjan, the learned A.C. to A.A.G.5 submits that the show cause has been considered but when his attention was drawn to the order of the Sub-divisional Officer with reference to the show cause filed by the petitioner, he could not be able to answer as to whether the order reflects the consideration of show cause and rejection of show cause in a proper manner. However, it is submitted that there is statutory provision of revision.

Having considered the submissions and on perusal of the impugned order as well as the show cause notice (Annexure-1) and the reply to the show cause notice, I find that the notice does not contain the statements of the witnesses and the enquiry report. In absence of enquiry report and the statements of the beneficiaries, the licensee is prevented from filing detailed show



cause and that amounts to non-providing the sufficient opportunity to the licensee to give show cause. It further transpires from the order impugned that the Sub-divisional Officer without giving any reason for rejecting the show cause and the defence taken by the petitioner rejected the show cause of the petitioner as devoid of truth. The order without reason is illegal and not sustainable, therefore, I find that the order of the Sub-divisional Officer dated 23.02.2018 as contained in Annexure-3 and the order of the Collector dated 02.07.2019 as contained in Annexure-4 are illegal and not sustainable. Accordingly, both the orders are set aside. The matter is remitted to the Sub-divisional Officer, East, Muzaffarpur to decide the matter afresh in accordance with law within four months from the date of receipt of this order.

The writ petition is allowed accordingly.

(Prabhat Kumar Jha, J)

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