

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19963 of 2019

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Vijay Singh Dusadh, aged about 46 years, Male, Son of Babulal Singh Dusadh, Resident of Village Bela, P.S. Sherghati, District Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. Sub-Divisional Officer, Sherghati, Gaya.
4. District Supply Officer, Gaya.
5. Assistant District Supply Officer, Sherghati, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar
For the Respondent/s : Mr.Arvind Ujjwal (Sc4)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 05-12-2020 Heard learned counsel for the petitioner and Mr. Upendra Pratap Singh, the learned A.C. to S.C.4, through video conferencing.

The petitioner in this writ petition seeks quashing of the order dated 06.08.2019 (Annexure-3), passed by the Sub-Divisional Officer, Sherghati, Gaya by which the PDS licence of the petitioner being Licence No.24/2016 has been cancelled.

Learned counsel for the petitioner assails the order on the ground that the Sub-Divisional Officer asked show cause from the petitioner vide show cause notice dated 27.07.2019. Four fold allegations are made that at the time of inspection, the



shop was closed, the food grains were irregularly distributed, less amount of food grains was given to the petitioner and only one litre kerosene oil was given that too after realizing the price more than the price prescribed but no enquiry report is given along with the show cause. The petitioner has filed his show cause that on account of illness of his Bua (बुआ), he went to her house after closing the shop. It is submitted that due to non-supply of the enquiry report, the petitioner could not submit the detailed and explanatory show cause and non-supply of enquiry report with the show cause notice is violative of principles of natural justice and on this ground alone, the order impugned cancelling the licence of the petitioner is not sustainable and illegal.

Mr. Upendra Pratap Singh, the learned A.C. to S.C.4 submits that the petitioner has not stated about non-supply of enquiry report in his show cause but in show cause filed by the petitioner, the petitioner has clearly stated that the enquiry report was not given nor the statements of the complainants were supplied. None of the consumers has got any complaint against the petitioner.

It has been held by this Court time and again that if show cause is issued on the basis of the enquiry report or the



complaints of the consumers, the entire enquiry report and the statements of the consumers must be supplied to the licensee so that the licensee may give his proper explanation for the allegations made against him. Non-supply of enquiry report and the statements of the complainants/consumers must prejudice the case of the petitioner and the licensee cannot be able to give proper explanation but without taking into consideration the facts, the Sub-Divisional Officer, Sherghati, Gaya has cancelled the licence of the petitioner, therefore, I find that the order suffers from illegality and not sustainable.

Accordingly, the order dated 06.08.2019 (Annexure-3), passed by the Sub-Divisional Officer, Sherghati, Gaya is set aside. The matter is remitted to the Sub-Divisional Officer, Sherghati, Gaya to decide the case afresh after hearing the petitioner in accordance with law.

The writ petition is allowed accordingly.

(Prabhat Kumar Jha, J)

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