

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19019 of 2018

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Shatrughan Malakar S/o Late Parmeshwar Malakar, resident of Village-
Sonsa, P.S. Rahui, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Nalanda.
3. The Sub Divisional Officer, Bihar Sharif, Nalanda.
4. The Additional Supply Officer, Bihar Sharif, Nalanda.
5. The Block Supply Officer, Rahui, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjaya Nath Tiwari
For the Respondent/s : Mr.Arvind Ujjwal, SC-4

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 24-02-2020 The present writ petition has been filed for setting aside the order dated 28.08.2018 passed by the Sub-Divisional Officer, Bihar Sharif, whereby and whereunder the license of the petitioner bearing License No. 49 of 2016, has been cancelled.

The learned counsel for the petitioner has raised two legal issues in support of the case of the petitioner. Firstly, it has been submitted that though the show cause notice dated 18.08.2018, issued to the petitioner mentions about the enquiry report being enclosed, however, in paragraph nos. 9 to 12 of the present writ petition, it has been categorically stated that none of the enquiry reports were ever supplied to the petitioner herein, hence it is submitted that the petitioner has not been



granted reasonable opportunity to submit his wholesome defence after considering the enquiry report in question, thus, the principle of natural justice has been violated and not adhered to. Secondly, it is submitted that a bare perusal of the impugned order dated 28.08.2018 would show that the Sub-Divisional Officer, Bihar Sharif has relied upon the enquiry report received by him under the joint signature of the Assistant District Supply Officer, Bihar Sharif and Block Supply Officer, Rahui which was never supplied to the petitioner, hence the learned Sub-Divisional Officer, Bihar Sharif has relied upon extraneous materials, which were never put to the petitioner for the purposes of seeking his response upon the same, thus the Sub-Divisional Officer, while passing the impugned order dated 28.08.2018, has faltered and not adhered to the principles of natural justice.

The learned counsel appearing for the State could not deny the the submissions of the learned counsel for the petitioner, both on law as also on facts.

Having regard to the facts and circumstances of the case, considering the submissions advanced by the learned counsel for the parties, this Court is of the opinion that since neither the enquiry report nor the report of the Assistant District



Supply Officer, Bihar Sharif/Block Supply Officer, Rahui has been furnished to the petitioner herein, the petitioner has been precluded from filing wholesome defence considering the materials available in the said enquiry report against the petitioner herein, hence this Court is of the view that reasonable opportunity has not been granted to the petitioner to put forth his wholesome defence, thus the order impugned dated 28.08.2018 has been passed in complete violation of the principles of natural justice.

In such view of the matter, this Court finds that the order impugned dated 28.08.2018 passed by the Sub-Divisional Officer, Bihar Sharif, is not sustainable in the eyes of law, hence is quashed, however, with liberty to the Sub-Divisional Officer, Bihar Sharif to proceed afresh in the matter after supplying the aforesaid enquiry reports to the petitioner herein.

The writ petition stands allowed on the aforesaid terms.

(Mohit Kumar Shah, J)

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