

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8398 of 2020

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Braj Kishore Sah, Male, Aged about 60, Son of Late Jugal Sah, Resident of Village and P.O.- Daudnagar, District- Vaishali.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food and Consumer Protection Department, Government of Bihar.
2. The Secretary, Food and Consumer Protection Department, Government of Bihar.
3. The Collector cum District Magistrate, Vaishali.
4. The Sub Divisional Officer (SDO), Hajipur, Vaishali.
5. The District Supply Officer, Hajipur, Vaishali.
6. The Assistant District Supply Officer, Hajipur, Vaishali.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Bipin Bihari Singh, Advocate
For the Respondents : Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 25-06-2021 Heard Mr. Bipin Bihari Singh, learned counsel

 appearing on behalf of the petitioner as well as Mr. Alok

 Ranjan, AC to AAG 5 for the respondents.

 It is admitted position that adverse report on which

 action was taken against the petitioner was not supplied to the

 petitioner as evident from paragraph 9 of the counter affidavit. It

 appears that the plea has been taken that since the petitioner has

 not demanded document, therefore it was not supplied and there

 was no need to supply the document. For ready reference,

 paragraph 9 of the counter affidavit is quoted hereinbelow :-



“9. That it is humbly submitted that on 11.08.2018, the petitioner appeared before S.D.O. Hajipur and submitted his show cause reply alongwith other relevant documents wherein he has not made any complaint with regard to non-supply of enquiry report.”

It is obligatory on the part of the respondents to supply enquiry report before taking any action of cancellation of PDS licence. The supply of necessary document on which charges are based is a condition precedent for taking adverse decision. There is no requirement in law that proceedee has to demand for supply of such document on which charges are based.

Considering the aforesaid stand of the respondents, the Court is left with no option but to quash the impugned order dated 08.07.2020 vide Annexure-4.

Accordingly, the writ application is allowed. Annexure-4 is quashed. PDS licence of the petitioner is restored forthwith. Restoration of PDS licence will not disentitle to the respondents to take fresh decision after affording opportunity of hearing in accordance with law

(Anil Kumar Upadhyay, J)

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