

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20710 of 2019

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Ashok Kumar Mehta @ Ashok Mehta S/o Nakchadi Mehta R/o Village-
Dahgama, Ward No. 03, Near Nahar, Panchayat-Baisir, Block-Raghopur, P.S.
Raghopur, District-Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply
Department, Govt. of Bihar, Patna.
2. The District Magistrate-Cum-Collector, Supaul.
3. The Sub-Divisional Officer, Birpur, Supaul.
4. The Block Supply Officer, Raghopur, Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Akash Chaturvedi, 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

3 21-01-2021 Heard Mr. Akash Chaturvedi, learned counsel for the
petitioner and Mr. Alok Ranjan, learned A.C. to A.A.G.5.

The petitioner in this writ petition seeks quashing of
the order dated 28.09.2018 as contained in Memo No.1270-2
passed by the Sub-Divisional Officer-cum-Licensing Authority,
Birpur by which P.D.S. license of the petitioner has been
cancelled. The petitioner also seeks quashing of the order dated
30.05.2019 passed in Supply Appeal No.6 of 2018 by which the
Collector, Supaul dismissed the appeal of the petitioner without
giving any finding on his objection that the license of the
petitioner has been cancelled on erroneous ground and without
serving the inquiry report said to be held after issuance of first



show cause notice.

The petitioner was served with a show cause notice on 07.08.2018. The Sub-Divisional Officer called upon the petitioner to give show cause on the allegations of the card holders that without giving the foodgrains for the month of July, the licensee entered into the register that the foodgrains of the months of June and July were distributed to the card holders. The petitioner having received the notice filed detailed show cause annexing the statement of card holders. The card holders stated that they have regularly received the foodgrains from the petitioner. The petitioner was again served with second show cause notice on 08.09.2018. The Sub-Divisional Officer stated that an inquiry was held and it was found that many card holders such as Sita Devi, Devki Devi, Batasia Devi, Gita Devi, Bindeshwari Ram and others stated that they did not receive any foodgrains from the licensee of the P.D.S. shop. The second show cause notice does not contain any inquiry report. The petitioner again filed second show cause but since the inquiry report was not given to the petitioner, the petitioner could not submit his show cause properly. Non-supply of the inquiry report amounts to not providing sufficient opportunity to the licensee but the Sub-Divisional Officer cancelled the license of



the petitioner holding that the reply/show cause of the petitioner is unsatisfactory. It is further submitted that petitioner also took ground in the appeal but the Collector also confirmed the order of the Sub-Divisional Officer without looking into the ground of the petitioner.

Mr. Alok Ranjan, learned counsel for the State submits that although the order of the Collector is exhaustive but there is no finding on the point that whether inquiry report was served on the petitioner along with the second show cause.

Having considered the submissions of both sides, I find from perusal of Annexure-6, the second show cause, that the Sub-Divisional Officer, Birpur referred in the notice asking for second show cause from the petitioner about the inquiry held with regard to examine the truthfulness of the allegations made by the card holders but the inquiry report is not annexed with the second show cause. Non-supply of the inquiry report to the licensee amounts to not providing sufficient opportunity to present his case and, therefore, the order on this ground alone is vitiated and not sustainable. The appellate authority also did not give any finding about non-supply of the inquiry report and, therefore, I find that the order of the appellate authority is also illegal and not sustainable. Accordingly, the orders dated



28.09.2018 and 30.05.2019 as contained in Annexure-8 and Annexure-9 are quashed. The matter is remitted to the Sub-Divisional Officer, Birpur to pass order afresh in accordance with law within four months from the date of receipt of this order after serving the inquiry report.

(Prabhat Kumar Jha, J)

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