

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21029 of 2021

Radha Kumari W/o Ram Diwakar Resident of Village- Maniyari, P.S.-
Punaura, District- Sitamarhi.

... .. Petitioner.

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Collector Sitamarhi.
3. The Sub-Divisional Officer-cum- Licensing Authority Sadar, Sitamarhi.
4. The Block Supply Officer Dumra, District- Sitamarhi.

... .. Respondents.

Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Advocate
For the Respondent/s : Mr. Anisul Haque, AC to AAG-5

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

4 06-04-2022 Heard Mr. Dhananjaya Nath Tiwari, learned

Advocate for the petitioner and Mr. Anisul Haque for the

State.

The petitioner has challenged the order dated
16.10.2021 passed by the Sub-divisional Officer Sadar
-cum-Licensing Authority, Sitamarhi whereby the licence
of the petitioner has been cancelled.

It has been urged on behalf of the petitioner
that she received a notice on 23.01.2020 with respect to



certain deficiencies in dealing with the PDS shop. The aforesaid notice was based on a report dated 17.01.2020 in which it was alleged that for the last six months, the targeted beneficiaries have not been provided with subsidized food grains. Even stock position of the petitioner did not indicate that the PDS shop was being run properly.

The petitioner appears to have replied to the aforesaid show cause notice on 03.02.2021 but no action was taken on such reply and it remained pending for approximately 21 months.

From the impugned order, it appears that again, a spot verification of the shop and the godown of the petitioner was made and another report dated 07.10.2021 was furnished by the inspecting Team. Such report has not been furnished to the petitioner and on the basis of the complaint made and deficiencies found in the latter report, the order of cancellation has been passed.



The petitioner therefore never got an opportunity to confront those entries in the latter inspection report which was never furnished to him.

On that count only, learned counsel for the petitioner submits that the order impugned is not sustainable in the eyes of law.

We find force in the submissions of learned counsel for the petitioner.

The reply of the petitioner dated 03.02.2021 was never adverted to and later, after several months of such reply having been filed, another report was submitted to the Licensing Authority, which report was never made known to the petitioner.

It appears from the impugned order that it has been passed on the basis of the latter report.

We are not persuaded to sustain the aforesaid order. The same is, therefore, set aside.

The matter is remanded to the Licensing Authority with a direction to make available to the



petitioner the latter report dated 07.10.2021 and after giving opportunity to him to rebut the allegation in such report and to pass a reasoned order afresh in accordance with law taking into account the reply filed by the petitioner. Such process shall be completed and an order shall be passed within a period of 60 days from the date of receipt/production of a copy of this order before the Licensing Authority.

With the aforesaid observation and direction, this writ petition stands disposed of.

(Ashutosh Kumar, J.)

(Anjani Kumar Sharan, J.)

Trivedi/-

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