

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13474 of 2017

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Nagendra Choudhary, Son of Late Chhotu Choudhary, Resident of Muhalla-Bibiganj, Post and P.S.-Danapur, District-Patna.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Commissioner, Patna Division, Patna.
3. The Collector and District Magistrate, Patna, District-Patna.
4. The Sub-Divisional Officer, Danapur, District-Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate.

For the Respondents : Mr. Arvind Ujjwal, SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 22-12-2017

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ petition has been filed for the
following reliefs:

“(A) Certiorari for quashing and setting aside the order passed by the Sub-Divisional Officer, Danapur, Patna vide Memo No. 470 dated 01.04.2014 contained in Annexure-1 whereby and whereunder licence of the petitioner’s Fair Price shop bearing No. 04/07 has been cancelled as well as quashing and setting aside the order dated 31.03.2016 passed by the learned Collector-cum-District Magistrate, Patna in E.C. Appeal Case No. 33/2015-16 and issued the same vide memo No. 595 dated 03.05.2016 contained in Annexure-8 whereby and whereunder appeal filed by the petitioner against the cancellation order has been rejected and quashing and setting aside the order dated 27.06.2017 passed by the learned Commissioner, Patna Division, Patna



in Essential Commodities Act. Revision 81-2016 contained in Annexure-9 whereby and whereunder revision filed by the petitioner against the appellate order has been rejected.

(B) A mandamus commanding the respondents to restore the petitioner's licence as before and to make allotment for the petitioner's shop.

(C) Any other relief or reliefs for which petitioner may be found entitled in the facts and circumstances of the present case may be granted to him."

3. Learned counsel for the petitioner makes a short submission to assail the impugned order on the ground that a copy of the enquiry report was not made available to the petitioner and he was never confronted with the same with an opportunity of being heard or adducing evidence in that regard. A specific stand has been taken in paragraph-20 of the writ petition that the impugned order of cancellation of licence has been passed without providing a copy of the enquiry report to the petitioner, though the same has been relied upon in the impugned order. Such infirmity could not be cured in the appeal and revision as well.

4. Learned counsel for the respondents appears and has been heard. The stand of the petitioner with regard to non-supply of enquiry report has not been controverted, as no counter affidavit has been filed till date.

5. In the above view of the matter, this Court is satisfied that non-supply of the enquiry report to the petitioner has resulted in



violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 01.04.2014 (Annexure-1), the appellate order dated 31.03.2016 (Annexure-8) as well as the revisional order dated 27.06.2017 (Annexure-9) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Danapur, Patna for taking decision afresh in the matter after supplying a copy of the enquiry report to the petitioner and granting an opportunity of hearing in accordance with law. Supplies to the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 4.

6. It is made clear that in case the stand of the petitioner denying receipt of the enquiry report prior to order of cancellation being passed is found to be incorrect, the respondents shall be at liberty to approach this Court for recall of this judgment.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.01.2018
Transmission Date	N.A.

