

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8296 of 2014

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Ram Binod Singh, Son of Sri Bhola Singh, Resident of village and P.O. - Sijua,
P.S. - Baheri, District - Darbhanga.

.... Petitioner

Versus

1. The State of Bihar through the Secretary Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Sub-Divisional Officer, Sadar Darbhanga, District - Darbhanga.
3. The District Magistrate, Darbhanga, District - Darbhanga.
4. Bhulla Sada, son of Late Bhutta Sada, resident of Village Sijua (Baligaon), P.S. Baheri, District Darbhanga

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate
For the Respondents : Mr. Kumar Manish, SC 5
For Respondent No. 4 : Mr. Pankaj Kr. Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 08-12-2017

I.A. No. 5444 of 2014

The interlocutory application has been filed by the intervener, namely, Bhulla Sada, with the prayer by adding him as the intervener-respondent in the writ petition filed by petitioner, namely, Ram Binod Singh against the order impugned dated 20.03.2014 passed by the Sub-Divisional Officer, Sadar Darbhanga in connection with Memo No. 243 whereby and whereunder the petitioner's fair price shop dealer bearing Licence No. 67/2007 has been cancelled on the basis of allegation made by the present intervener/respondent before the competent authority i.e. Sub-Divisional Officer, Sadar Darbhanga.



2. Having regard to the nature of the prayer, the interlocutory application is allowed and the same shall be treated to form part of the writ petition.

3. As prayed, learned counsel for the petitioner is permitted to add Bhulla Sada, son of Late Bhutta Sada, resident of Village Sijua (Baligaon), P.S. Baheri, District Darbhanga as party respondent no. 4 in course of the day.

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4. Heard learned counsel for the petitioner, learned counsel for the respondents as well as learned counsel for the intervener.

5. The present writ petition has been filed for quashing the order contained in memo no. 243 dated 20.03.2014 passed by the Sub-Divisional Officer, Sadar Darbhanga by which licence of the petitioner's Fair Price shop bearing No. 67/2007 has been cancelled and monthly allotment has been stopped; and further to restore the petitioner's licence.

6. 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 12 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 had been relied upon in the impugned order.

7. 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 even though more than three years have elapsed since the writ petition was filed.

8. 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 contained in memo no. 243 dated 20.03.2014 (Annexure-1) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Sadar, Darbhanga 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. 2.

9. 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.

10. The writ petition stands allowed as above.

(Vikash Jain, J)



B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.12.2017
Transmission Date	N.A.

