

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1451 of 2017

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Md. Gufran Alam, Son of Md. Faruk Ansari, resident of Village- Mansuria, P.S.- Banka, District- Banka.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Banka.
3. The Licensing Authority-cum-Sub-Divisional Officer, Banka, District- Banka.
4. The Assistant District Supply Officer, Banka, District- Banka.
5. The Block Supply Officer, Bank, District- Banka.

.... Respondents

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Appearance :

For the Petitioner : Mr. Bhola Kumar, Advocate.

For the Respondents : Mr. Sanjay Kr.Giri, GP-9

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 27-11-2017

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

2. The present writ petition has been filed for quashing the order dated 02.12.2016 passed by the Sub-Divisional Officer, Banka by which the licence of the petitioner's fair price shop has been cancelled.

3. Learned counsel for the petitioner makes a short submission to assail the impugned order of cancellation, on the ground that a copy of the inquiry report which has been relied upon in the impugned order was not made available to the petitioner and hence he was unable to file a meaningful reply to the show cause notice.

4. Learned counsel for the respondents appears and has been heard. The stand of the petitioner with regard to non-supply of the inquiry report has not been controverted in the counter affidavit filed on behalf of the respondents.



5. Having heard the parties and on a consideration of the materials on record, this Court finds merit in the writ petition. The petitioner has taken a specific stand that a copy of the inquiry report has not been made available to the petitioner but relied upon while passing the impugned order, which has not been denied by the respondents. Failure to provide the materials relied upon before passing an adverse order amounts to violation of the principles of natural justice and vitiates the decision making process.

6. In this view of the matter, the impugned order dated 02.12.2016 (Annexure-6) is hereby quashed and the matter is remanded to the Licensing Authority-cum-Sub-Divisional Officer, Banka (respondent no. 3) for taking a decision afresh in accordance with law after supply of a copy of the inquiry report to the petitioner and granting him opportunity of being heard. In the meantime, the licence of the fair price shop stands restored with immediate effect.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	01.12.2017
Transmission Date	N.A.

