

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12330 of 2016

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Janardhan Jha son of Late Sukhdeo Jha, Resident of village - Jainagar, P.S.
Bhargama, District - Araria

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Consumer Protection
Department, Bihar, Patna
2. The District Magistrate - Cum - Collector, Araria
3. The Sub Divisional officer, Farbesganj, Araria
4. The Circle Officer, Bhargama, Araria

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Advocate.
For the Respondents : Mr. Sheo Shankar Prasad, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT
Date: 20-11-2017

The present writ petition has been filed for quashing of the order contained in Memo No. 94/Aa dated 10.03.2015 passed by learned Sub-Divisional Officer, Farbesganj; and further for quashing the order dated 08.04.2016 passed in Control Order Appeal No. 01/2015-16 by the learned Collector, Araria by which the appeal filed on behalf of the petitioner was dismissed and order cancelling license dated 10.03.2015 was affirmed.

2. Learned counsel for the petitioner makes a short submission to assail the interim order of cancellation, to the effect that the show cause reply filed by the petitioner was not considered at all. It is further submitted that the infirmity in the cancellation order can not be cured at the stage of appeal and hence the appellate order is vitiated as well.

3. Learned counsel for the respondents opposes the writ



petition relying upon the counter affidavit.

4. Having heard the parties and on a careful consideration of the materials on record, this Court finds merit in the writ petition. The respondents have not controverted the fact that the petitioner had filed the reply to the show cause before the Sub-Divisional Officer, Farbesganj. A perusal of the impugned order of cancellation dated 10.03.2015 (Annexure-3) discloses that the show cause reply of the petitioner has not even been adverted to, much less discussed or reasons given for not accepting the plea of the petitioner.

5. In this view of the matter, the decision making process stands vitiated. The infirmity cannot be cured in appeal nor by reasons supplemented by filing a counter affidavit.

6. The impugned orders dated 10.03.2015 and 08.04.2016 are hereby quashed and the matter is remanded to the Sub-Divisional Officer, Farbesganj for fresh decision after consideration of the petitioner's show cause reply and after grant of opportunity of hearing to the petitioner in accordance with law.

7. The writ petition stands allowed.

Md. Ibrarul/BT

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	22.11.2017
Transmission Date	N.A.

