

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.876 of 2017

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Jay Prakash Choudhary, Son of Late Dwarika Prasad Choudhary, Resident of
Village and Post-Durgapur,-Bhawanipur, District-Purnea

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer
Protection Department, Old Secretariat, Patna
2. The Collector, Purnea, District-Purnea.
3. The Sub-Divisional Officer, Dhamdaha, District-Purnea.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate

For the Respondents : Mr. Sanjay Kr.Giri, GP9

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 30-11-2017

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) For quashing and setting aside the order passed by
the Sub-Divisional Officer, Dhamdaha vide Memo No.
85 dated 05.02.2013 whereby and whereunder licence
of the petitioner’s Fair Price Shop has been cancelled
contained in Annexure-1 and quashing and setting
aside the order dated 05.04.2016 passed by the learned
Collector in Supply Appeal No. 52 of 2013 contained in
Annexure-4 whereby and whereunder appeal filed by
the petitioner against the cancellation order has been
rejected and affirmed the cancellation order.

(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 9 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. Such infirmity could not be cured in the appeal 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 05.02.2013 (Annexure-1) as well as the appellate order dated 05.04.2016 (Annexure-4) are hereby quashed



and the matter is remanded to the Sub-Divisional Officer, Dhamdaha, District Purnea 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. 3.

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)

B.T/Chandran

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

