

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.790 of 2017

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Raj Kumar Azad, Son of Late Bindeshwari Yadav, Resident of Village and Post-Belsandi, P.S.-Bithan, District-Samastipur

.... Petitioner

Versus

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

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate

For the Respondents : None

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 14-12-2017

Heard learned counsel for the petitioner.

2. The writ petition has been filed for quashing the order passed by the Sub-Divisional Officer, Rosara vide Memo No. 403 dated 30.11.2016 whereby and whereunder licence of the petitioner's P.D.S. Shop bearing no. 416/2007 old and 395/16 new has been suspended contained in Annexure-3 and quashing the order passed by the same authority vide Memo No. 449 dated 23.12.2016 whereby and whereunder licence of the petitioner's P.D.S. shop bearing No. 395/16 has been cancelled contained in Annexure-1 and further to restore the petitioner's licence as before and to make allotment for the same.

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 17 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.

4. None appears on behalf of the respondents. 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 passed by the Sub-Divisional Officer, Rosara, Samastipur vide Memo No. 449 dated 23.12.2016 (Annexure-1) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Rosara, Samastipur 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

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