

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9329 of 2017

=====

Arjun Ojha, Son of Late Jagarnath Ojha, Resident of Village and Post- Amuan
Manjhar, P.S.- Bettiah Muffasil, District- West Champaran at Bettiah.

.... Petitioner

Versus

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

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate

For the Respondents : Mr. S. Raza Ahmad-AAG5

Mr. Alok Ranjan, AC to AAG 5

=====

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, Bettiah Sadar issued vide
Memo No. 02 dated 30.01.2016 whereby and
whereunder licence of the petitioner’s Fair Price Shop
has been cancelled only on a sole ground that an F.I.R.
of Bettiah Muffasil P.S. Case No. 25/2016 dated
08.01.2016 under section 7 of the E.C. Act has been
registered against the petitioner contained in
Annexure-1 and quashing and setting aside the order
dated 15.03.2017 passed by the learned District
Magistrate, West Champaran, Bettiah in Case No. C.R.M.



12 of 2016-17 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 no show cause notice was supplied 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 issuing any show cause notice to the petitioner. 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 the show cause notice 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 show cause notice to the petitioner has resulted in violation of natural justice and thus the decision making process stands



vitiated. The impugned order dated 30.01.2016 (Annexure-1) as well as the appellate order dated 15.03.2017 (Annexure-4) are hereby quashed and the matter is remanded to the Sub-Divisional Officer, Bettiah Sadar, for taking decision afresh in the matter after supplying a show cause notice 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.
Uploading Date	06.12.2017
Transmission Date	N.A

