

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13404 of 2017

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Ram Naresh Pandit, Son of Late Suryanarayan Pandit, Resident of Village -
Hawaspur, Post - Behat, P.S. - Barauni, District - Begusarai.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer
Protection Department, Old Secretariat, Patna.

2. The Collector-cum-District Magistrate, Begusarai, District - Begusarai.

3. The Sub-Divisional Officer, Begusarai, District - Begusarai.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate.

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

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 22-12-2017

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, Begusarai issued vide Memo
No. 710 dated 17.06.2009 whereby and whereunder
licence of the petitioner’s Fair Price shop bearing No. 15 of
2007/11 of 1987 has been cancelled contained in
Annexure-1 and quashing and setting aside the order
dated 03.12.2011 passed by the learned Collector-cum-
District Magistrate, Begusarai in Misc. Case No. 22 of 2009
contained in Annexure-9 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-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 has 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 17.06.2009 (Annexure-1) as well as the appellate order dated 03.12.2011 (Annexure-9) are hereby



quashed and the matter remanded to the Sub-Divisional Officer, Begusarai 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)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.01.2018
Transmission Date	N.A.

