

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10117 of 2017

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Ram Nath Kumar Son of Uma Shankar Ray, resident of village - Indrewara,
P.S. - Tajpur Halai, District - Samastipur.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Samastipur.
3. The Sub-Divisional Officer, Samastipur.
4. The Block Supply Officer, Morwa, District - Samastipur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Binay Kumar, Advocate.

For the Respondents : Mr. S. RAZA Ahmad, AAG-5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 28-06-2018

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ petition has been filed for the
following reliefs -

“(i) For issuance of a writ in the nature of ‘Certiorari’ for setting aside the order dated 02.06.2017 passed in Licence Appeal No. 13/2017 by learned District Magistrate, Samastipur by which he has refused to interfere in the order dated 13.01.2017 as contained in memo No. 33 passed by the Sub-Divisional Officer, Samastipur whereby the P.D.S. shop of the petitioner bearing licence no. 265/2008 was cancelled..

(ii) For further to set-aside the order as contained in Memo No. 33 dated 13.01.2017 passed by the learned Sub-Divisional Officer, Samastipur by which the P.D.S. Shop



licence no. 265/2008 granted to the petitioner has been cancelled.

(iii) To further direct the respondents to allow the petitioner to run the P.D.S. shop as the order passed by the Sub-Divisional Officer, Samastipur and District Magistrate, Samastipur is contrary to fact and law.

(C) For other necessary relief or reliefs to which the petitioner may be entitled in the facts and circumstances of the case.”

3. Learned counsel for the petitioner makes a short submission to assail the impugned order on the ground that nor a copy of the complaint and 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-8 of the writ petition that the impugned order of cancellation of licence has been passed without providing a copy of the complaint and 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.

4. Learned counsel for the respondents appears and has been heard. The stand of the petitioner with regard to non-supply of the complaint and the enquiry report has not been controverted in the counter affidavit filed on behalf of the respondents.

5. In the above view of the matter, this Court is satisfied that non-supply of complaint and 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 13.01.2017 (Annexure-3) and the appellate order dated 02.06.2017 (Annexure-5) are hereby quashed and the matter remanded to the Sub-Divisional



Officer, Samastipur, for taking decision afresh in the matter after supplying a copy of the complaint and 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 copy of the complaint and 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	03.07.2018
Transmission Date	N.A.

