

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7949 of 2017

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Sita Ram Yadav, son of Late Ajadhi Yadav, resident of Village- Kamaldih, P.S.-
Amarpur, P.O.- Banka, District- Banka.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar.
2. The Principal Secretary, Department of Food and Civil Supplies, Government of Bihar.
3. The District Magistrate, Banka.
4. The Sub Divisional Officer, Banka.
5. The Block Supply Officer, Amarpur, Kamaldih, Banka.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ajay Mukherjee, Advocate.

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

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 22-02-2018

The present writ petition has been filed for setting aside the order dated 29.11.2011 contained in memo no. 1183 by which the learned Sub Divisional Officer, Banka has cancelled the licence of the petitioner granted under the provision of Fair Price Shop Order, 2007; and for quashing the order dated 11.03.2017 passed in Appeal No. 101 of 2011-12 by the learned District Magistrate, Banka, dismissing the appeal and affirming the order of the learned S.D.O., Banka.

2. Learned counsel for the petitioner makes a short submission to assail the impugned order on the ground that show cause notice was not served upon the petitioner nor copies of the enquiry report were given and he was not given any opportunity of being heard or adducing evidence in that regard. A specific stand has



been taken in para 17 of the writ petition that the impugned order of cancellation of licence has been passed without serving show cause notice to the petitioner nor the copies of the enquiry report were supplied to him, though the same had been relied upon in the impugned order. Such infirmity could not be cured in the appeal.

3. Learned counsel for the respondents appears and has been heard.

4. In the above view of the matter, this Court is satisfied that non-service of the show cause notice to the petitioner as well as non-supply of the enquiry report to him has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 29.11.2011 (Annexure-3) and the appellate order dated 11.03.2017 (Annexure-5) are hereby quashed and the matter is remanded to the Sub-Divisional Officer, Banka, for taking decision afresh in the matter after serving show cause notice and supplying the copies of the enquiry report upon 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. 4.

5. It is made clear that in case the stand of the petitioner denying non-service of show cause notice 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.

6. The writ petition stands allowed as above.



(Vikash Jain, J)

Md. Ibrarul/BT

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