

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13230 of 2017

=====

Pappu Kumar Son of Late Bhola Mochi Resident of Village- Pali, P.S.- Bihta,
District- Patna.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Food and Civil Supplies, Govt. of Bihar, Patna.
3. The District Magistrate, Patna.
4. The Sub Divisional Officer, Danapur, Patna.
5. The Assistant District Supply Officer, Danapur.
6. The Block Supply Officer, Bihta, Patna.

.... Respondents

=====

Appearance :

For the Petitioner : Ms. Sushmita Mishra, Advocate

For the Respondents : Mr. Lalan Kumar, AC to GP9

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-02-2018

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 the issuance of a rule in the nature of writ of certiorari for quashing the order dated 25.05.2017 passed by respondent no. 2, the District Magistrate, District Patna, whereby and whereunder the E.C. Appeal No. 23/2016-17 against the cancellation of the P.D.S. licence of the petitioner has been dismissed and the order dated 22.07.2016 passed by the respondent no. 4, Sub Divisional Officer, Sub-Division Danapur, Patna cancelling the P.D.S. licence of the petitioner bearing no. 13/07 has been affirmed.



(ii) For the issuance of a rule in the nature of writ of Mandamus commanding the respondent authorities to revoke the cancellation of the aforesaid licence of the petitioner for the benefit of the beneficiaries of the petitioner.”

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 22 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. 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 a copy of the enquiry report has not been controverted in the counter affidavit.

5. In the above view of the matter, this Court is satisfied that non-supply of a copy of the enquiry report to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The appellate order dated 25.05.2017 passed



by the District Magistrate, Patna in E.C. Appeal Case No.23/2016-17 (Annexure-1) and the impugned order dated 22.07.2016 (Annexure-2) are hereby quashed and the matter is remanded to the Sub-Divisional Officer, Danapur, Patna 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. 4.

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	27.02.2018
Transmission Date	N.A.

