

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10686 of 2017

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Binod Kumar Pandey Son of Late Bishnu Panday, Resident of Village-Panday
Dih, Chandan, Post and P.S.-Chandan, District-banka.

.... Petitioner

Versus

1. The State of Bihar, through Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector Banka, District-Banka.
3. The Sub-Divisional Officer, Banka, District-Banka.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate.
For the Respondents : Mr. Arvind Ujjwal, SC-4
Mr. Maruty Nath Roy, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 22-02-2018

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

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

*“(A) For quashing and setting aside the order passed by
the Sub-Divisional Officer, Banka, issued vide Memo No. 466
dated 23.03.2015 whereby and whereunder licence of the
petitioner’s Fair Price shop bearing No. 36/12 has been
cancelled contained in Annexure-1 as well as quashing and
setting aside the order dated 16.03.2017 passed by the
learned Collector, Banka in Misc. Appeal Case No. 02/2015-
16 contained in Annexure-10 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-3 of the supplementary affidavit 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.

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 23.03.2015 (Annexure-1) and the



appellate order dated 16.03.2017 (Annexure-10) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Banka, 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	23.02.2018
Transmission Date	N.A.

