

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13245 of 2017

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Haider Ali, Son of Nawaab Ali, Resident of Village/Sakin- Thakraha, P.S.-
Thakraha, District- West Champaran, Bettiah.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supplies Department, Government of Bihar, Patna.
2. The Collector, West Champaran, Bettiah.
3. The Licensing Authority cum Sub-Divisional Officer, Bagha, West Champaran.
4. The Block Development Officer, Thakraha Block, District- West Champaran.
5. The Marketing Officer, Thakraha Block, District- West Champaran.

.... Respondents

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Appearance :

For the Petitioner : Mr. Om Prakash Singh, Advocate

For the Respondents : Mr. S. Raza Ahmad - AAG5

Mr. Alok Ranjan, AC to AAG 5

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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 issuance of a writ or writs in the nature of certiorari for quashing the order dated 08.08.2017 passed by the learned Court of the Collector, West Champaran, in Case No. C.R.M. - 36/2015-2016 (Annexure-5), whereby the learned court of Collector passed an order under appeal of the Essential Commodities Act by which learned Collector has



affirmed the order dated 08.03.2016 of Sub-Divisional Officer cum Licensing Authority, Bagha.

(ii) For setting aside the order dated 08.03.2016 (Annexure-3) passed by Sub-Divisional Officer cum Licensing Authority under the Essential Commodities Act whereby and whereunder the learned Sub-Divisional Officer Bagha cancelled the PDS license of the petitioner bearing no. 1/95 on the basis of a Complaint filed by one Dahari Yadav, who is made an allegation of irregularity against PDS shop dealer as being card-holder of the concerned PDS dealer.

(iii) For issuance of a writ or writs in the nature of mandamus commanding the respondents to restore the Petitioner's License No. 01/95 for Public Distribution System shop.

(iv) For issuance of such other order/orders, direction/directions holding the act of the respondents as unreasonable and arbitrary."

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 9 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 the 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 appellate order dated 08.08.2017 passed by the Collector, West Champaran in Case No. C.R.M. – 36/2015-16 (Annexure-5) and the impugned order dated 08.03.2016 (Annexure-3) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Bagha, West Champaran 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)



B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	24.02.2018
Transmission Date	N.A.

