

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5883 of 2016

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Shankar Rai son of Late Mogal Rai, R/o Village- Babu Bishunpur, P.S.- Yadopur,
District - Gopalganj

.... Petitioner

Versus

1. The State of Bihar
2. The Collector, Gopalganj
3. The Sub-Divisional Officer, Gopalganj

.... Respondents

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Appearance :

For the Petitioner : Mr. Yogendra Prasad Sinha, Advocate

For the Respondents : Mr. Ranjan Kumar, AC to GA 12

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 06-02-2018

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 an appropriate writ/order/ direction
for quashing the order dated 06.09.2014 passed by
Respondent no. 3 in Supply Case No. 6/2014 as contained
in Annexure-4 to this application.*

*(ii) For issuance of an appropriate writ/order/ direction
for quashing the order dated 11.09.2015 passed by
Respondent no. 2 in Supply Appeal No. 10/2015 as
contained in annexure-5 to this application.*

*(iii) For issuance of an appropriate writ/order/
direction to direct the Respondents to restore the licence
no. 41/2007 of the petitioner concerning P.D.S. shop.*

*(iv) For issuance of any other appropriate writ/order/
direction for which the petitioner is entitled.”*



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 along with show cause notice 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 paragraphs 2 and 3 of the supplementary affidavit that the impugned order of cancellation of licence has been passed without providing a copy of the enquiry report along with show cause notice 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. He relies on the statements made in the counter affidavit to oppose the writ petition but however is unable to controvert the specific stand of the petitioner with regard to non-supply of the enquiry report.

5. In the above view of the matter, this Court is satisfied that non-supply of the enquiry report along with show cause notice to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The appellate order dated 11.09.2015 passed by the Collector in Supply Appeal No. 10/2015 as contained in Annexure-5 and the impugned order dated 06.09.2014



passed by Respondent no. 3 in Supply Case No. 6/2014 as contained in Annexure-4 are hereby quashed and the matter remanded to the Sub-Divisional Officer, Gopalganj for taking decision afresh in the matter after supplying a copy of the enquiry report along with show cause notice 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 along with 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.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.02.2018
Transmission Date	N.A.

