

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5684 of 2016

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Dhram Nath Prasad Son of Late Harihar Prasad, R/o Village- Yadopur, P.S.-
Yadopur, District- Gopalganj

.... Petitioner/s

Versus

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

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yogendra Prasad Sinha, Adv

For the Respondent/s : Mr. GP16- RAJESH SINGH

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 07-05-2018

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

2. The present writ petition has been filed for quashing the order dated 06.09.2014 passed by the Sub-Divisional Officer, Gopalganj and the appellate order dated 11.09.2015 in Supply Appeal Case No. 12 of 2015 passed by the Collector-cum-District Magistrate, Gopalganj, by which the licence of the petitioner's Fair Price shop has been cancelled and monthly allotment has been stopped; and further to restore the petitioner's licence.

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 para 6 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 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.

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 06.09.2014 (Annexure-4) and the appellate order dated 11.09.2015 (Annexure-5) 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 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)

Chandran/BT

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