

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1796 of 2018

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Md. Azherul Islam S/o Nasiruddin Resident of Barachaundi, P.S. Thakurganj,
District- Kishanganj.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector, Kishanganj.
3. The Sub-Divisional Officer, Kishanganj.
4. The Block Supply Officer, Thakurganj, Kishanganj.

.... Respondents

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Appearance :

For the Petitioner : Mr. Amal Kumar Sinha, Advocate.

For the Respondents : Mr. Arvind Ujjwal, SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 30-03-2018

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

2. The present writ petition has been filed for setting
aside the order contained in Memo No. 20787 dated 08.08.2017 passed
by the learned S.D.O. Kishanganj by which the PDS license of the
petitioner being license no. 40 TH/2016 has been cancelled; further for
quashing the order dated 12.12.2017 passed in PDS Appeal Case No.
37/2017 passed by the learned Collector, Kishanganj by which the
statutory appeal was dismissed; and further be pleased to restore the
license as well as supply 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-11 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 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 08.08.2017 (Annexure-5) and the appellate order dated 12.12.2017 (Annexure-6) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Kishanganj, 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/Chandran

AFR/NAFR	NAFR
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