

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18319 of 2016

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Dinkar Prasad Gupta Son of Sri Ram Chandra Prasad, Resident of village -
Patdaura, P.S. Bajpatti, District - Sitamarhi

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Secretary, Food and Civil Supplies, Government of Bihar, Patna
3. The District Magistrate, Sitamarhi, District Sitamarhi
4. The Sub - Divisional Officer, Pupri, District Sitamarhi
5. The Block Development officer - Cum - Block Supply Officer, Bajpatti, District Sitamarhi

.... Respondents

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Appearance :

For the Petitioner : Mr. Pushpendra Kumar Singh
For the Respondents : Mr. Arvind Ujjwal, 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 issuance of an appropriate writ in the nature of
Certiorari for quashing the order dated 04.10.2016 passed
by the Respondent No. 4 and contained in Memo No. 371
dated 04.10.2016 whereby and whereunder the respondent
no. 4 has been pleased to cancel the Public Distribution
System (hereinafter referred to as the P.D.S.) license of the
petitioner bearing License No. 101 of 1984 with immediate
effect and directed the respondent no. 5 to make available
the proposal to attach the consumers of petitioner’s P.D.S.
shop to the nearest P.D.S. Dealer.*

(B) For issuance of an appropriate writ in the nature of



MANDAMUS commanding and directing the respondent authorities to restore the license of the petitioner as also restore the supply on the ground that the cancellation order was passed by the respondent no. 4 in complete violation of the principles of NATURAL JUSTICE since it was passed without giving any opportunity of hearing to the petitioner as also without obtaining the show cause from the petitioner.

(C) For issuance of any other writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case."

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-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 has been relied upon in the impugned order.

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 04.10.2016 (Annexure-P-5) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Pupri, District- Sitamarhi, 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. 4.

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/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	23.02.2018
Transmission Date	N.A.

