

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5689 of 2018

Subodh Singh, Son of Late Murari Prasad Singh, Resident of Muhalla - Ward No.-1, Barahiya, Post and P.S. - Barahiya District-Lakhisarai.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Commissioner, Munger Division, Munger.
3. The Collector, Lakhisarai, District-Lakhisarai.
4. The Sub-Divisional Officer, Lakhisarai, District Lakhisarai

.... Respondents

Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh,
Mr. Chandra Moleshwar, Advocates
For the Respondents : Mr. S. Raza Ahmad- AAG5
Mr. Alok Ranjan, AC to AAG 5

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 17-04-2018

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) Certiorari for quashing and setting aside the order passed by the Sub-Divisional Officer, Lakhisarai vide Memo No. 505 dated 7/8/2013 contained in **Annexure-1** whereby and whereunder licence of the petitioner’s Fair Price Shop bearing No. 26/85 has been cancelled as well as quashing and setting side the order dated 20/12/2016 passed by the learned Collector, Lakhisarai in Miscellaneous (Supply) Appeal Case No. – 06/2013 contained in **Annexure-4** whereby and whereunder appeal filed by the petitioner against the cancellation order has been rejected and*



*quashing and setting aside the order dated 23/12/2017 passed by the learned Commissioner, Munger Division, Munger in Supply Revision No. 17/2017 contained in **Annexure-5** whereby and whereunder revision filed by the petitioner against the appellate order has been rejected.*

(B) A mandamus commanding the Respondents to restore the petitioner's licence as before and to make allotment for the petitioner's shop.

(C) Any other relief or reliefs for which petitioner may be found entitled in the fact and circumstances of the present case may be granted to him."

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 no show cause notice in respect of the proposed cancellation was served upon him 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 15 of the writ petition that the impugned order of cancellation of licence has been passed without providing a copy of the enquiry report as well as without serving any show cause notice in respect of the proposed cancellation 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 as in revision.

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 as well as non-service of show cause notice in respect of the proposed cancellation to the petitioner 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 as well as non-service of show cause notice in respect of the proposed cancellation to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The revisional order dated 23.12.2017 passed in Supply Revision No. 17/2017 (Annexure-5), the appellate order dated 20.12.2016 passed by the Collector, Lakhisarai in Misc. Supply Appeal Case No. 06/2013 (Annexure-4) and the impugned order dated 07.08.2015 (Annexure-1) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Lakhisarai for taking decision afresh in the matter after supplying a copy of the enquiry report and after serving show cause notice in respect of the proposed cancellation 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 as well as service of show cause notice in respect of the proposed cancellation 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	21.04.2018
Transmission Date	N.A.

