

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10854 of 2017

=====

Dinesh Singh, S/o Ramdeo Singh, Resident of Village- Baiju Bigha, Panchayat-
Belauti, P.S.- Gurua, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Food and Consumer Protection, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Gaya.
4. The Sub-Divisional Officer, Sherghati, Gaya.
5. The District Supply Officer, Gaya.
6. The Block Supply Officer, Gaya.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Tapeswar Sharma

For the Respondent/s : Mr. S.RAZA AHMAD-AAG5

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-05-2018

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 29.08.2013 passed by the Sub-Divisional Officer, Sherghati, Gaya, the appellate order dated 16.06.2016 in Supply Appeal Case No. 16 of 2015 passed by the District Magistrate, Gaya as also the revisional order dated 30.03.2017 Revision No. 91/2016 passed by the Divisional Commissioner, Magadh Division, Gaya by which the licence of the petitioner's Fair Price shop bearing no. 274/2007 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 14 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 had been relied upon in the impugned order. Such infirmity could not be cured in the appeal as well as in the revision.

4. Learned counsel for the respondents appears and has been heard. A counter affidavit has been filed on behalf of the respondents in which the stand of the petitioner has not been controverted.

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 29.08.2013 (Annexure-3), the appellate order dated 16.06.2016 (Annexure-6) and the revisional order dated 30.03.2017 (Annexure-8) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Sherghati, Gaya 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)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.05.2018
Transmission Date	NA

