

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12308 of 2017

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Gulam Rasool @ Mohd Gulam Rasool, Son of Late Mohd. Farmood Ansari,
Resident of Village - Jamaila. P.S. - Andhra Thadhi, District - Madhubani.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supplies,
Govt. of Bihar, Patna.
2. The District Magistrate, Madhubani.
3. The Sub-Divisional Officer, Jhanjharpur, District - Madhubani.
4. The Block Supply Officer, Andhra Thadhi Prakhand, District - Madhubani.
5. The District Supply Officer, Madhubani.
6. The District Manager, State Food Corporation, Madhubani.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Murari Narain Chaudhary Mr. Vijay Kumar, Advocate
For the State	:	Mr. S. Raza Ahmad - AAG5 Mr. Md. Kamil Akhtar, AC to AAG 5
For the BSFC	:	Mr. Shailendra Kr. Singh, Mr. Lalmuni Sharma, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 29-06-2018

Heard learned counsel for the petitioner, learned counsel
for the State as well as learned counsel for the respondent-Corporation.

2. The present writ petition has been filed for the following
reliefs –

*“(i) For quashing of an order of the Sub-Divisional Officer,
Jhanjharpur (Respondent No. 3) vide Memo No. 529 dated
31.10.2014 , contained in Annexure-2, whereby and
whereunder the license of this petitioner for running
public distribution shop has been cancelled with*



immediate effect for violation of Provision of Bihar Control Act 2001.

(ii) For quashing of order dated 19.05.2017 passed by the learned Collector, Madhubani in Supply Appeal Case No. 42 of 2014-15, whereby and whereunder the Appeal filed on behalf of this petitioner has been dismissed without stating any valid reason for the same.

(iii) For revocation of the license issued in favour of this petitioner for running the aforesaid Public Distribution shop during pendency of instant writ application.

(iv) For any other relief/reliefs, the petitioner is entitled for.”

3. Learned counsel for the petitioner makes a short submission to assail the impugned order on the ground that he was not given any opportunity of being heard or for adducing evidence. A specific stand has been taken in paragraph 6 of the writ petition that the impugned order of cancellation of licence has been passed behind his back. Such infirmity could not be cured in the appeal as well.

4. A counter affidavit has been filed on behalf of the respondent-State, in paragraph 8 whereof it has been stated that a show cause notice vide letter no. 462 dated 27.09.2014 was issued to the petitioner but no show cause reply was filed till 31.10.2014. In this regard reference is made to Annexure-4 to the writ petition.

5. Having heard learned counsel for the parties and on



Careful consideration of the materials available on record, this Court finds merit in the writ petition. A specific stand has been taken in paragraph 6 of the writ petition that the impugned order of cancellation has been passed without giving any opportunity of hearing to the petitioner and an ex parte order has been passed behind his back. The respondents have not shown that the show cause notice as claimed to have been issued was ever served upon the petitioner prior to passing of the impugned order. Moreover, the assertion with regard to issuance of the show cause notice made in paragraph 8 of the counter affidavit with reference to Annexure-4 of the writ petition is misconceived as no such annexure is found to form part of the writ petition.

6. In the above view of the matter, the appellate order dated 19.05.2017 passed in Supply Appeal No. 42 of 2014-15 by the Collector, Madhubani (Annexure-3) and the impugned order dated 31.10.2014 contained in Memo No. 529 (Annexure-2) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Jhanjharpur, Madhubani (respondent no. 3) for taking decision afresh in the matter after serving show cause notice upon 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.



7. It is made clear that in case the stand of the petitioner denying non-service of the show cause notice 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.

8. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	03.07.2018
Transmission Date	N.A.

