

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8380 of 2018

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Kailash Ram, S/o Late Ramchandra Ram, Resident of Tola Sarvoday Nagar,
Majhiyawan, Post-Bala Bigha Majhiyawan P.S. Paraiya District-gaya.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food & Civil Supplies, Bihar, Patna.
2. The Divisional Commissioner, Magadh Division, Gaya.
3. The Sub Divisional Officer, Tekari, Gaya.
4. The District Supply Officer, Gaya.
5. The Block Supply Officer, Paraiya, Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sudhir Kumar Sinha, Advocate

For the Respondents : Mr. Alok Ranjan, AC to AAG5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 19-06-2018

Heard learned counsel for the petitioner as well as learned
counsel for the respondents.

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

“(i) To issue an appropriate order/s, direction/s including a writ preferably in the nature of CERTIORARI for quashing the order as contained in memo no. 1126 dated 19.12.2017 passed by the Sub Divisional Officer, Tikari (hereinafter referred to as Licensing Authority) under the Bihar Targeted Public Distribution System (Control) 2016 whereby and whereunder he has cancelled the fair price shop of the licence bearing 32/16 on the ground that in course of inspection on 14.06.2017 shop was closed and services irregularity has been found which led to lodging an



F.I.R. vide Paraiya P.S. Case No. 89/2017 under section 7 of Essential Commodities Act.

(ii) To direct the respondent No. 4 to restore the license of the petitioner taking into consideration that he has not been convicted by a competent court for violation or order made under section 3 of the Essential Commodities Act, 1955 or any other offence.

(iii) To any other relief/s to which the petitioner is entitled in 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 8(ii) 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.

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 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 contained in memo no. 1126 dated 19.12.2017 (Annexure-3) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Tekari, District 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. 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)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	26.06.2018
Transmission Date	N.A.

