

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14046 of 2017

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Md. Idrish, S/o Late Ali Md., Resident of Nimlagaon, P.S.- Pothia, District-Kishanganj.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Food & Consumer Protection, Government of Bihar, Patna.
2. The Collector, Kishanganj.
3. The Sub Divisional Officer, Kishanganj.
4. The Block Supply Officer, Pothia.

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Advocate

For the Respondents : Mr. Upendra Pratap Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-05-2018

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

2. The present writ application has been filed for setting aside the order contained in memo no. 654 dated 31.07.2013 by which the PDS license of the petitioner being licence no. 29P/2007 has been cancelled and further for quashing the order dated 20.06.2017 passed in PDS Appeal Case No. 19 of 2013 (*MD. Idrish Versus The State of Bihar & Ors.*) passed by the learned Collector-cum-District Magistrate, Kishanganj by which the statutory appeal filed on behalf of the petitioner was dismissed and for further direction to the respondents to restore the license of the petitioner.

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 19 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.

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 appellate order dated 20.06.2017 passed by the Collector, Kishanganj in PDS Appeal Case No. 19 of 2013 (Annexure-4) and the impugned order dated contained in Memo No. 654 dated 31.07.2013 (Annexure-3) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Kishanganj 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
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