

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2953 of 2018

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Hari Das, Son of Late Bechan Das, Resident of Village- Sakari, P.S.- Kudhani,
P.D.S. Dealer, Panchayat- Sakari Sariya Block- Kudhani, District- Muzaffarpur.

.... Petitioner

Versus

1. The State of Bihar.
2. The Collector, Muzaffarpur.
3. The Sub-Divisional Magistrate, West Muzaffarpur.
4. The Block Supply Officer, Kudhani.

.... Respondents

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Appearance :

For the Petitioner : Mr. Shankar Kishore Shahi, Advocate

For the Respondents : Mr. S. Raza Ahmad- AAG5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 15-05-2018

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

2. The present writ petition has been filed for quashing the order dated 30.08.2016/05.05.2017 issued under the signature of respondent no. 2, Collector, Muzaffarpur as well as memo no. 816 Supply, dated 11.05.2015 issued under the signature of respondent no. 3, Sub-Divisional Magistrate, West, Muzaffarpur whereby and whereunder the license of the P.D.S. shop of the petitioner has been cancelled without supply of enquiry report, without second show cause and without consideration of reply of 1st show cause notice.

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 dated 07.05.2015 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 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 30.08.2016/05.05.2017 issued under the signature of respondent no. 2, Collector, Muzaffarpur (Annexure-5) and the impugned order contained in Memo No. 816 Supply dated 11.05.2015 (Annexure-4) are hereby quashed and the matter remanded to the Sub-Divisional Officer, West Muzaffarpur (respondent no. 3) 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/-

AFR/NAFR	NAFR
CAV DATE	NAFR
Uploading Date	25.05.2018
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