

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.3438 of 2018**

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Vidhaya Nand Rai, Son of Late Asheshwar Rai, aged about 45 years, Resident of Village & Panchayat- Basauli, P.S.- Kudhani, District- Muzaffarpur, P.D.S. Dealer Panchayat Basauli, P.S.- Kudhani, District- Muzaffarpur.

.... .... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply Department, Bihar, Patna.
2. Sub-Divisional Magistrate, West Muzaffarpur.
3. The Block Development Officer, Kudhani.
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: 30-03-2018**

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for quashing the Memo No. 04 dated 01.01.2018 issued under the signature of respondent no. 2 Sub-Divisional Magistrate, West Muzaffarpur whereby and whereunder the license of the petitioner has been cancelled.

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 paragraphs-6 and 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 has 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 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 dated 01.01.2018 (Annexure-1) is hereby quashed and the matter remanded to the Sub-Divisional Magistrate, West Muzaffarpur, 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. 2.

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)**

Md. Ibrarul/Chandran

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