

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1574 of 2018

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Md. Akhtar, Son of Late Md. Sultan, Resident of Village-Meghauna, P.S. Alouli,
District Khagaria.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The Collector-Cum-District Magistrate, Khagaria.
3. The Sub-Divisional Officer, Khagaria, District Khagaria.
4. The Block Supply Officer, Alouli Block, District Khagaria.

.... Respondents

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Appearance :

For the Petitioner : Mr. Alok Kumar Agrawal, Advocate.

For the Respondents : Mr. Arvind Ujjwal, SC4

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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 the
following reliefs:

“(i) To issue an appropriate writ/(s)/order/direction for quashing the Ex-parte order dated 07.11.2017 passed by the respondent no. 2 Collector cum District Magistrate, Khagaria in Supply Appeal Case No. 16/2009-10/10/2012 whereby the appeal filed by the petitioner was dismissed illegally and erroneously without correctly appreciating the facts and law .

(ii) To issue appropriate writ/(s)/order(s)/direction(s)for quashing the order issued vide Memo No. 91 dated 03.03.2009 whereby the Public Distribution System



(hereinafter referred to as P.D.S.) license of the petitioner bearing license no. 93/A of 2007 has been cancelled illegally and without affording reasonable opportunity of hearing to the petitioner in.

(iii) To issue an appropriate writ/order directing the respondents to restore the P.D.S. license of the petitioner bearing License No. 93/A of 2007 and further direct for restoration of supplies to the petitioner's shop and grant such other relief/(s) to which the petitioner is found entitled to in the facts and circumstances of the present 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-12 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. Such infirmity could not be cured in the appeal.

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 03.03.2009 (Annexure-2) and the appellate order dated 07.11.2017 (Annexure-3) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Khagaria, 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)

Md. Ibrarul/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	11.04.2018
Transmission Date	N.A.

