

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8009 of 2018

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Md. Isa Son of Abdul Jalim, Resident of Mohalla Ward No. 6, Mantola
Bhagwatipur, P.S. Pandaul, District - Madhubani.

.... Petitioner

Versus

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

.... Respondents

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Appearance :

For the Petitioner : Mr. D.N. Tewari
Mr. Anujit Sinha, Advocates

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

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 11-05-2018

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 contained in Memo No. 672 dated 13.08.2011 issued by the Sub-
Divisional Officer, Madhubani by which licence of the petitioner
bearing no. 236/2007 has been cancelled as well as for quashing the
order dated 13.06.2017 passed by the District Magistrate-cum-
Collector, Madhubani in Appeal No. 71/2011-12 by which the appeal of
the petitioner has been rejected and confirmed the order of the S.D.O.;
and for connected reliefs.

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 9 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 13.06.2017 (Annexure-4) passed by the District Magistrate-cum-Collector, Madhubani in Appeal No. 71/2011-12 and the impugned order contained in Memo No. 672 dated 13.08.2011 issued by the Sub-Divisional Officer, Madhubani (Annexure-3) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Madhubani 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	N.A.
Uploading Date	21.05.2018
Transmission Date	N.A.

