

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9265 of 2018

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Binay Kumar, Son of Radheshyam Prasad Yadav, Resident of Village-
Jamalpur, Police Station- Shahkund, District- Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Food & Civil Supply Govt. of Bihar, Patna.
3. The District Magistrate, Bhagalpur.
4. The S.D.O. Sadar, Bhagalpur.
5. The District Supply Officer, Bhagalpur.
6. The Incharge Assistant District Supply Officer, Bhagalpur.
7. The Block Supply Officer, Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Binay Kumar, Advocate.

For the Respondents : Mr. S.Raza Ahmad, AAG-5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-05-2018

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) For issuance of a writ of certiorari or any other appropriate writ order or direction for quashing the leter dated 11.04.2018 contained in Memo No. 239 issued by the respondent no. 4. The S.D.O. Sadar Bhagalpur passed in Case No. 01 of 2018-19 by which he has most arbitrarily and quite erroneously cancelled the petitioner’s fair price shop bearing licence no. 54 of 2016 without serving the enquiry report as well as without considering the show



cause of the petitioner.

(II) For issuance of a writ of mandamus or any other appropriate writ order and direction commanding the respondent authorities to permit the petitioner to run his fair price shop by setting aside the aforesaid impugned orders under challenged.

(III) For grants of any other relief or reliefs for which petitioner may be entitled, deemed fit and proper in the facts and circumstances of the 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-11 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 11.04.2018 contained in Memo No. 240 (Annexure-1) is hereby quashed and the matter remanded to the Sub-Divisional Officer Sadar, Bhagalpur 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. 4.

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/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	20.05.2018
Transmission Date	N.A.

