

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19008 of 2017

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Md. Akhtar Hussain Son of Late Md. Israil Resident of Village, P.O. and P.S. - Salkhua, District - Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Saharsa, District - Saharsa.
3. The Sub-Divisional Officer, Simri Bakhtiyarpur, District - Saharsa.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Adv
For the Respondent/s : 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 order contained in memo no. 1096-2 dated 12.08.2017 passed by the Sub-Divisional Officer, Simri Bakhtiyarpur, by which licence of the petitioner's Fair Price shop has been cancelled and monthly allotment has been stopped; and further to restore the petitioner's licence.

3. Learned counsel for the petitioner makes a short submission to assail the impugned order on the ground that show cause notice was not served upon the petitioner and he was not given any opportunity of being heard or adducing evidence in that regard. A specific stand has been taken in para 7 of the writ petition that the impugned order of cancellation of licence has been passed without serving show cause notice to the petitioner, though the same had been relied upon in the impugned order.

4. Learned counsel for the respondents appears and has been heard.

5. In the above view of the matter, this Court is satisfied that non-



service of the show cause notice to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 12.08.2017 (Annexure-1) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Simri Bakhtiyarpur for taking decision afresh in the matter after serving show cause notice upon 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 non-service of show cause notice 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)

Chandran/BT

AFR/NAFR	NAFR
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