

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19386 of 2017

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Shiv Durga Chaudhary, Son of Late Kangali Chaudhary, Resident of Village-Harkutari, P.O.-Chuanpali, P.S.-Bandhua Kurawa, District-Banka.

.... Petitioner

Versus

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

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh

For the Respondents : Mr. S.RAZA AHMAD -AAG5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 22-02-2018

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

2. The present writ petition has been filed for the following reliefs:

“(A) A Certiorari for quashing and setting aside the order passed by the Sub-Divisional Officer, Banka, vide Memo No. 851 dated 26.09.2017 whereby and whereunder licence of the petitioner’s Fair Price shop bearing No. 14/12 has been cancelled contained in Annexure-1..

(B) A mandamus commanding the respondents to restore the petitioner’s licence as before and to make allotment for the petitioner’s shop.

(C) Any other relief or reliefs for which petitioner may be found entitled in the facts and circumstances of the present case may be granted to him.”



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 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 26.09.2017 (Annexure-1) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Banka, 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/BT

AFR/NAFR	NAFR
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