

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7457 of 2017

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Most. Shubhkala Devi, Wife of Daurik Singh, Resident of Village Ekma, Post
Office Ekma, Police Station Supaul, District Supaul.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food & Civil Supplies, Government of Bihar, District Patna.
2. The Divisional Commissioner, Koshi Division, Saharsa at District Saharsa.
3. The Collector, Supaul at District Supaul.
4. The Additional Collector, Supaul, District Supaul.
5. Sub-Divisional Officer, Supaul, District- Supaul

.... Respondents

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Appearance :
For the Petitioner : Mr. Alok Kumar Agrawal, Advocate.
For the Respondents : Mr. S. Raza Ahmad, AAG-5
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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 26-03-2018

As prayed, learned counsel for the petitioner is permitted to implead the Sub-Divisional Officer, Supaul, District- Supaul as party respondent no. 5 in course of the day.

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

“(i) For quashing the order dated 24.10.2016 passed by the respondent no. 3, the Collector in Supply Appeal No. 12 of 2016 whereby the Collector without appreciating the facts and the law has upheld the order of cancellation passed by the Sub Divisional Officer of the Public Distribution System license granted to the petitioner bearing License No. 1/2012;

(ii) For quashing the order dated 17.05.2016 whereby the



Sub-Divisional Officer has arbitrarily and for extraneous consideration cancelled the Public distribution System license bearing License No. 1/2012 of the petitioner although there was no complaint from any consumer against the petitioner; and/or to grant any other relief or reliefs which may be granted to the petitioner as may be legally found entitled to 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 inspection 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-5 of the writ petition that the impugned order of cancellation of licence has been passed without providing a copy of the inspection 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 inspection report has not been controverted in the counter affidavit filed on behalf of the respondents.

5. In the above view of the matter, this Court is satisfied that non-supply of the inspection report to the petitioner has resulted



in violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 17.05.2016 (Annexure-8) and the appellate order dated 24.10.2016 (Annexure-9) are hereby quashed and the matter is remanded to the Sub-Divisional Officer, Supaul, District- Supaul for taking decision afresh in the matter after supplying a copy of the inspection 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. 5.

6. It is made clear that in case the stand of the petitioner denying receipt of the inspection 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	29.03.2018
Transmission Date	N.A.

