

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9947 of 2017

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Yogendra Singh, S/o Late Yamuna Singh, Resident of Village- Brahmayeem,
P.S.- Uchakagaon, District- Gopalganj.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The Commissioner, Saran Division, Chapra.
3. The Collector cum District Magistrate, Gopalganj at Gopalganj.
4. The Sub Divisional Officer, Hathua, District- Gopalganj.
5. The Block Supply Officer, Uchakagaon, District- Gopalganj.
6. The Block Supply Inspector, Uchakagaon, District- Gopalganj.

.... Respondents

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Appearance :

For the Petitioner : Mr. Uday Pratap Singh, Advocate.

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

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 30-04-2018

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 writ in the nature of certiorari or any other appropriate writ for quashing the order dated 09.05.2017 passed in Supply Appeal Case No. 01/2017 by the Collector, Gopalganj (respondent no. 3) whereby and whereunder he has affirmed the order of cancellation of Public Distribution Syswtem (PDS) dealership license bearing no. 30/2007 passed by the Sub-Divisional Officer, Hathu, Gopalganj (respondent no. 4) vide his order dated 21.12.2016 contained in Memo no. 1670 rejected the reply of the show cause filed by the petitioner and further



directed to associate the consumers with other nearest PDS shop.

(B) For issuance of a writ in the nature of Mandamus or any other appropriate writ, order/s, direction/s, commanding the respondents for the followings-

I. To treat Annexure-3 & 5 to the petition to be nullity and non-est in the eye of law.

II. To restore the P.D.S. dealership license bearing no. 30/2007 granted to petitioner for supply of goods for Gram Panchayat Raj Uchakagaon falling within Uchakagaon Block of the Gopalganj district and to allow him to carry on the dealership business.

(C) Any other relief/s to which the petitioner is found entitled to..”

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. 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 enquiry 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 enquiry report to the petitioner has resulted in violation of natural justice and thus the decision making process stands



vitiated. The impugned order dated 21.12.2016 (Annexure-3) and the appellate order dated 09.05.2017 (Annexure-5) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Hathua, District- Gopalganj 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	02.05.2018
Transmission Date	N.A.

