

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11042 of 2017

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Nasrin Fatma, Wife of Abdul Kalam, Resident of Village- Birdipur, Post- Arai
Birdipur, P.S.- Simri, District- Darbhanga.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Commissioner, Darbhanga Division, Darbhanga.
3. The Collector and District Magistrate, Darbhanga, District- Darbhanga.
4. The Sub-Divisional Officer, Sadar, Darbhanga, District- Darbhanga.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate

For the Respondents : Mr. Sanjay Kr. Giri, GP-9

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-05-2018

Heard learned counsel for the petitioner as well as learned
counsel for the respondents.

2. This writ application has been filled for the following
reliefs –

“(i) Certiorari for quashing and setting aside the order passed by the Sub-Divisional Officer, Sadar, Darbhanga vide Memo No. 120 dated 24/1/2013 contained in Annexure-1 whereby and whereunder license of the petitioner’s Fair Price Shop has been cancelled as well as quashing and setting aside the order dated 16/1/2015 passed by the learned Collector and District Magistrate Darbhanga in P.D.S. Case No. 28/2013 contained in Annexure-6 whereby and whereunder appeal filed by the



petitioner against the cancellation order has been rejected and quashing and setting aside the order dated 6/10/2015 and order dated 12/4/2017 both have been passed by the learned Commissioner, Darbhanga Division, Darbhanga in P.D.S. No. 06/2015 and Case No. 03/17 contained in Annexure - 7 (series) whereby and whereunder revision filed by the petitioner against the appellate order has been rejected.

(ii) A mandamus commanding the Respondents to restore the petitioner's license as before and to make allotment for the petitioner's shop.

(iii) Any other relief or reliefs for which petitioner may be found entitled in the fact 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 she 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 16 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 had been relied upon in the impugned order. Such infirmity could not be cured in the appeal as well as in the revision.

4. Learned counsel for the respondents appears and has been



heard. The stand of the petitioner with regard to non-supply of the 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 revisional orders dated 06.10.2015 and 12.04.2017 both passed by the Divisional Commissioner, Darbhanga (Annexure-7 series); the appellate order dated 16.01.2015 passed by the Collector, Darbhanga in P.D.S. Case No. 28/2013 (Annexure-6) and the impugned order dated 24.01.2013 (Annexure-1) are quashed and the matter remanded to the Sub-Divisional Officer, Sadar, Darbhanga (respondent no. 4) 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)



B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	24.05.2018
Transmission Date	N.A.

