

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10184 of 2014

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Kalanand Sharma, S/o Late Gulabchand Sharma, Resident of Village -
Baghmara, P.S.- Srinagar, District- Madhepura

.... Petitioner

Versus

1. The State of Bihar through the Commissioner, Saharsa
2. The Commissioner, Saharsa
3. The District Magistrate, Madhepura
4. The District Supply Officer, Madhepura
5. The Sub Divisional Officer, Udakisunganj, Madhepura
6. The Block Supply Officer, Kumarkhand, Madhepura

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari

For the Respondents : Mr. Prabhat Kumar Verma, AAG-5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 23-07-2018

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

2. The present writ petition has been filed for setting
aside the order contained in memo no. 88-2 dated 30.01.2010 passed
by learned S.D.O., Madhepura by which the license of the petitioner has
been cancelled and the appellate order dated 30.11.2013/13.12.2013
passed in Supply Appeal No. 10 of 2011 by which the appeal was
rejected by the learned Collector and affirmed the order dated
30.01.2010 passed by the learned S.D.O., Madhepura.

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-18 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 30.01.2010 (Annexure-1) and the appellate order dated 30.11.2013/13.12.2013 (Annexure-2) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Madhepura 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. It is made clear that



this Court is not entering into the merits of the other contentions of the petitioner such as award of double punishment etc. which the petitioner shall be at liberty to raise before the respondent no. 5. License of 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
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