

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12897 of 2015

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Jeevan Kumar Chaudhary Son of Sri Vimal Prasad Chaudhary Resident of
Village and Post-Bharko,P.s Amarpur, District Banka.

.... Petitioner/s

Versus

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

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Adv

For the Respondent/s : Mr. MD. RAISUL HAQUE- SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 15-01-2018

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

2. The present writ petition has been filed for quashing the order contained in memo no. 1148 dated 02.07.2015 passed by the Sub-Divisional Officer, Banka by which licence of the petitioner's Fair Price shop bearing no. 23 of 2012 has been cancelled and monthly allotment has been stopped; and further to restore the petitioner's licence.

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 para 15 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.

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 even though more than two years have elapsed since the writ petition was filed.

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 1148 dated 02.07.2015 (Annexure-1) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Banka (respondent no. 3) 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)

Chandran/BT

AFR/NAFR	NAFR
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