

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19397 of 2015

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Md. Shamim son of Md. Zainul, resident of Mohalla Kanhauli, Vishundat, Goshala Road, Post Office Ramna, Police Station Mithanpura, District Muzaffarpur.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Collector, Muzaffarpur.
3. The Sub Divisional Officer, East, Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Syed Firoz Raza, Advocate.

For the Respondents : Mr. Madhukar Mishra, AC to SC-16

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 12-09-2018

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

2. The present writ petition has been filed for quashing the order dated 19.02.2013 passed by the learned Collector, Muzaffarpur in connection with P.D.S. Appeal No. 24 of 2009-2010 whereby the learned Collector has rejected the appeal and affirmed the order dated 25.02.2010 passed by the Sub-Divisional Officer, East, Muzaffarpur, by which the licence for the PDS shop of the petitioner was cancelled.

3. Learned counsel for the petitioner makes a short



submission to assail the impugned order on the ground that no enquiry report or non-furnishing the names of the complainants was 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-3 of the supplementary affidavit that the impugned order of cancellation of licence has been passed without providing a copy of the enquiry report or non-furnishing the names of the complainants 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 or non-furnishing the names of the complainants 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 or non-furnishing the names of the complainants to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 25.02.2010 (Annexure-6), and the appellate order dated 19.02.2013 (Annexure-1) are hereby quashed and the matter remanded to the Sub-Divisional Officer, East, Muzaffarpur for



taking decision afresh in the matter after supplying a copy of the enquiry report or non-furnishing the names of the complainants to the petitioner and granting an opportunity of hearing in accordance with law. License of 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 as well non-furnishing the names of the complainants 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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