

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16391 of 2017

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Harishikesh Tiwari, Son of Jagdish Tiwari, resident of Village- Bastar, P.S.-
Dhoraiya, District- Banka.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate cum Collector, Banka.
3. The Licensing Authority cum Sub Divisional Officer, Banka, District- Banka.
4. The Assistant District Supply Officer, Banka, District- Banka.
5. The Block Supply Officer, Dhoraiya, District- Banka.

.... Respondents

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Appearance :

For the Petitioner : Mr. Bhola Kumar, Advocate

For the Respondents : Mr. U. Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-02-2018

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) For issuance of a writ in the nature of Certiorari quashing the order dated 27.10.2016 (Annexure-5) passed by the learned Sub-Divisional Officer, Banka whereby the Sub-Divisional Officer cancelled the licence vide Licence no. 13/2012 of the petitioner of fair price shop under Public Distribution System.

(B) For directing the respondents to allow the petitioner to run the shop under Public Distribution system in village Batsar, P.S. Dhauraiya, District Banka.

(C) For passing any other/s, Command/s or appropriate writ/s which your Lordships deem fit and proper in the



facts and circumstances of the instant case."

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 7 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 a copy 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 a copy 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 27.10.2016 (Annexure-5) passed by the learned Sub-Divisional Officer, Banka is hereby quashed and the matter is remanded to him 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)

B.T/Chandran

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

