

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17296 of 2017

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Lal Bahadur Sah S/o Saburi Sah Resident of Village- Mahisarho, P.S. Mahishi,
District- Saharsa.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Consumer Protection Department, Bihar, Patna.
2. The District Magistrate-cum-Collector, Saharsa.
3. The Sub-Divisional Officer, Sadar, Saharsa
4. The Block Supply Officer, Mahishi, Saharsa.

.... Respondents

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Appearance :
For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Adv
For the Respondent/s : Mr. S.RAZA AHMAD -AAG5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-03-2018

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

2. As prayed learned counsel for the petitioner is permitted to make correction in the name of the petitioner as 'Lal Bahadur Sah' in place of 'Lal Babu Sah' in the array of parties in course of the day.

3. The present writ petition has been filed for quashing the order contained in memo no. 87 dated 15.01.2016 passed by the Sub-Divisional Officer, Sadar, Saharsa and the appellate order dated 30.08.2017 in Supply Appeal Case No. 01/2016 passed by the Collector-cum-District Magistrate, Saharsa, by which the licence of the petitioner's Fair Price shop bearing no. 356 of 2007 has been cancelled and monthly allotment has been stopped; and further to restore the petitioner's



licence.

4. 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 11 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.

5. Learned counsel for the respondents appears and has been heard.

6. 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 15.01.2016 (Annexure-3) and the appellate order dated 30.08.2017 (Annexure-4) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Sadar, Saharsa 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.

7. 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.

8. The writ petition stands allowed as above.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
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