

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7092 of 2017

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Niwas Mandal, aged about 42 years S/o late Basant Mandal, R/o Village- Bari Alalpur, P.S. Parbatta, Sub-Division- Naugachhia, District- Bhagalpur Public Distribution System Dealer Licence Holder No. 21/91 Gram Panchayat Raghapur, Prakhand Kharik District- Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar
2. The Commissioner, Bhagalpur Division, Bhagalpur.
3. The Collector, Bhagalpur, District Bhagalpur.
4. The District Supply Officer, Bhagalpur, Collectorate, Bhagalpur.
5. The Sub-Divisional Officer, Naugachhia, District- Bhagalpur.
6. The Block Supply Officer Khrik Sub-Division, Naugachhia, District- Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Md. Salahuddin Khan, Advocate.

For the Respondents : Mr. Arvind Ujjwal, SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 30-03-2018

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

2. The present writ petition has been filed for quashing the office order Memo No. 337 dated 13.09.2014 passed by the Sub-Divisional Officer, Naugachia contained in Annexure-7; order dated 27.09.2016 passed by the Collector, Bhagalpur in E.C. Supply Appeal No. 54/2014-15 contained in Annexure-9 and the order dated 25.02.2017 passed by the Commissioner, Bhagalpur Division in Misc. (Supply) Revision Appeal No. 15/2016-17 contained in Annexure-10.

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-3 of the supplementary affidavit 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 has been relied upon in the impugned order. Such infirmity could not be cured in the appeal and revision as well.

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.

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 13.09.2014 (Annexure-7), the appellate order dated 27.09.2016 (Annexure-9) as well as the revisional order dated 25.02.2017 (Annexure-10) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Naugachia, Bhagalpur 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. 5.

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)

Md. Ibrarul/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	11.04.2018
Transmission Date	N.A.

