

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13872 of 2017

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Baleshwar Sharma, Son of Late Madan Sharma, resident of Bakarchack under
Gram Panchayat Arma, Block- Surajgarha, P.S.- Surajgarha, District- Lakhisarai.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food & Consumer Protection Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Munger.
3. The District Magistrate, Lakhisarai.
4. The Sub Divisional Officer, Lakhisarai.
5. The District Supply Officer, Lakhisarai.
6. The Block Supply Officer, Surajgarha, District- Lakhisarai.

.... Respondents

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Appearance :

For the Petitioner : Mr. Narendra Kumar Singh, Advocate

For the Respondents : Mr. S. Raza Ahmad, AAG5
Mr. Alok Ranjan, AC to AAG 5

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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 the following
reliefs –

“(i) Petitioner seeks Hon’ble Court’s indulgence for quashing the order dated 15.07.2017 passed in Supply Revision Case No. 13 of 2017 whereby and whereunder respondent-Commissioner affirmed the order passed by District Magistrate in Supply Case No. 72 of 2015-16 and order passed by respondent Sub-Divisional Officer contained in memo No. 587 dated 08.09.2015 whereby PDS Licence no. 2/91 granted to petitioner has been cancelled with immediate effect and further Block Supply Officer, Surajgarh has been directed to make arrangement for



attaching the consumer of licence shop of petitioner attached with nearby PDS shopkeeper.

(ii) Petitioner further seeks Hon'ble Court's indulgence for quashing the order dated 15.12.2016 passed in Appeal Case No. 72/2015-16 by respondent District Magistrate affirming the cancellation of licence of petitioner by respondent Sub Divisional Officer.

(iii) Petitioner further seeks Hon'ble Court's indulgence for quashing the order contained in memo no. 587 dated 08.09.2015 by respondent Sub Divisional Officer, Lakhisarai who without supplying the copy of the enquiry report to the petitioner a decision was taken to cancel the PDS licence no. 2/1991 with immediate effect and further respondent B.D.O. was directed for making arrangement for attaching the consumer of licence shop of petitioner with the nearby PDS shopkeeper.

(iv) Petitioner further seeks Hon'ble Court's indulgence commanding the respondent authority to restore the PDS shop licence no. 2/91 of the petitioner.

(v) Petitioner further seeks any other relief/reliefs for which he is found entitled in the eye of law and in the facts and circumstances of the present 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 10 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 as in the revision.

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 revisional order dated 15.07.2017 passed by the respondent-Commissioner (Annexure-1), the appellate order dated 15.12.2016 passed by the Collector, Lakhisarai (Annexure-2) and the impugned order of cancellation of licence dated 08.09.2015 passed by the Sub-Divisional Officer, Lakhisarai (Annexure-3) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Lakhisarai 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. 4.

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.
Uploading Date	18.01.2018
Transmission Date	N.A.

