

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14727 of 2017

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Bishun Lal Sah son of Late Anant Lal Sah, Resident of Village- Kanhauli, Nagar Panchayat Jhanjharpur, P.S. Jhanjharpur, District- Madhubani.

.... Petitioner

Versus

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

.... Respondents

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Appearance :

For the Petitioner : Mr. Arjun Kumar, Advocate.
For the Respondents : Mr. Arvind Ujjwal, SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 05-01-2018

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) For issuance of writ in the nature of certiorari for quashing the order vide Memo No. 528 dated 04.10.2017 passed and issued by the respondent no. 3 (S.D.O. Jhanjharpur) whereby and whereunder the license of the petitioner under Public Distribution System has been cancelled as this order cancelling the license of the petitioner is only for harassing the petitioner and totally against the mandate of law.

(ii) For issuance of writ in the nature of mandamus directing the respondents to restore the allotment of the trade articles pursuant to the quashing of the aforesaid order passed by Sub-Divisional Officer, Jhanjharpur.

(iii) For the grant of relief in the nature of declaration



that the petitioner having not violated any of the terms and conditions of the license issued in the name of petitioner or any of the provisions of Public Distribution System (Control) Orders, 2001 could not be proceeded against for cancellation of license by the respondents on the reasons given in the show cause notice and especially on the reason that the order cancelling the license of the petitioner cannot be sustained as it is totally in violation of the provisions of the Control Order, 2001.

(iv) For the issuance of any other appropriate writ(s)/order(s)/direction(s) for which the petitioner is found entitled for in the present facts and circumstances of the case by this Hon'ble Court."

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-9 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 has 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 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 04.10.2017 (Annexure-4) is hereby quashed and the matter remanded to the Sub-Divisional Officer-cum- Licensing Authority, Jhanjharpur, District- Madhubani 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)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	09.01.2018
Transmission Date	N.A.

