

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4600 of 2015

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Girdhari Sah @ Girdhari Prasad Sah @ G. Prasad Son of Late Bhulan Sah,
Resident of Village Samera Bazar, Police Station Gopalpur, District Gopalganj.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Food and Supply, Government of Bihar, Patna.
2. The District Magistrate, Gopalganj, District Gopalganj.
3. The Sub-Divisional Magistrate, Gopalganj, District Gopalganj.
4. The Block Supply Officer, Kuchaikot Block, District Gopalganj.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ajay Kumar Sharma, Advocate

For the Respondents : Mr. Uday Shankar Sharan Singh- GP1

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-08-2018

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

2. The present writ petition has been filed for quashing the order dated 24.10.2011 passed by the District Magistrate, Gopalganj in Misc. (Supply) Appeal No. 40/2008 whereby and whereunder the District Magistrate has rejected the appeal filed by the petitioner against the order dated 01.03.2008 passed by Sub-Divisional Officer, Gopalganj in Case No. 44/2008 by which PDS licence of the petitioner bearing no. 122/2007 has been cancelled and monthly allotment has been stopped; and further to restore the petitioner's licence.



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 dated 21.11.2007 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. Such infirmity could not be cured in the appeal as well.

4. Learned counsel for the respondents appears and has been heard. The stand of the petitioner with regard to non-supply of the enquiry report has not been controverted, as no counter affidavit has been filed till date even though about three years have elapsed since the writ petition was filed.

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 appellate order dated 24.10.2011 passed by the Collector, Gopalganj in Misc. (Supply) Appeal No. 40/2008 (Annexure-5) and the impugned order dated 01.03.2008 (Annexure-3) are hereby quashed and the matter remanded to the Sub-Divisional Officer,



Gopalganj 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. Licence of 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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