

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16110 of 2014

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Smt. Fulmati Devi W/o Shri Ram Prasad, Resident of Village- Bajrahiya, P.S.-
G.B. Nagar, District- Siwan

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Government of Bihar, Patna
2. The Deputy Secretary, Food and Consumer Protection Department, Government of Bihar, Patna
3. The Divisional Commissioner, Saran at Chapra
4. The District Magistrate, Siwan
5. The Sub Divisional Officer, Maharajganj, District- Siwan
6. The Block Supply Officer, Maharajganj, Siwan

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dineshwar Mishra, Adv

For the Respondent/s : Mr. S.RAZA AHMAD

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 16-08-2018

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 18.07.2014 issued by the Deputy Secretary, Food and
Consumer Protection Department, Govt. of Bihar, Patna, order dated
26.02.2014 passed by the Divisional Commissioner, Saran at Chapra, the
order dated 21.12.2012 in Supply Appeal Case No. 20/2012-13 passed
by the District Magistrate, Siwan affirming the order dated 16.03.2012
passed by the Sub Divisional Officer, Maharajganj, Siwan by which the



licence of the petitioner's Fair Price shop bearing no. 74 of 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 no show cause notice nor names of the allegationists nor a copy of the enquiry report was 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 4 of the supplementary affidavit that the impugned order of cancellation of licence has been passed without providing a copy show cause notice, names of allegationists and 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.

5. In the above view of the matter, this Court is satisfied that non-service of show cause notice and copy of the enquiry report to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The orders 18.07.2014, 26.02.2014, 21.12.2012 and the impugned order dated 16.03.2012 (Annexure-1 series) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Maharajganj, Siwan for taking decision afresh in the



matter after service of fresh show cause notice along with copy of enquiry report and other relevant documents pursuant to the inspection carried out on 14.02.2012 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 service of the show cause notice and receipt of 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)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.08.2018
Transmission Date	NA

