

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.5590 of 2016**

=====

Bablu Rai @ B. Rai Son of Late Mogal Rai, R/o Village - Babu Bishunpur, P.S. -  
Yadopur, District - Gopalganj.

.... .... Petitioner

Versus

1. The State of Bihar
2. The Collector, Gopalganj.
3. The Sub-Divisional Officer, Gopalganj.

.... .... Respondents

=====

**Appearance :**

For the Petitioner : Mr. Yogendra Prasad Sinha, Advocate

For the Respondents : Mr. Subodh Kumar, AC to SC 26

=====

**CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN**

**ORAL JUDGMENT**

**Date: 06-02-2018**

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) To issue an appropriate writ/s, order/s, direction/s  
in the nature of certiorari for quashing the order dated  
06.09.2009 passed by Respondent no. 3 in Supply Case  
No. 5/2014 as contained in Annexure-4 to this  
application by which he has cancelled the P.D.S. shop  
licence of the petitioner as well as to quash the order  
dated 11.09.2015 passed by Respondent no. 2 in Supply  
Appeal No. 11/2015 as contained in Annexure-5 to this  
application by which he has dismissed the appeal of the  
petitioner and has affirmed the order of Respondent no. 3  
dated 06.09.2014.*

*(ii) For issuance of any other appropriate writ/order/  
direction for which reliefs the petitioner is entitled.”*



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 paragraphs 6 and 7 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 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 enquiry report has not been controverted in the counter affidavit.

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 11.09.2015 passed by the Collector in Supply Appeal No. 11/2015 as contained in Annexure-4 and the impugned order dated 06.09.2014 passed by Respondent no. 3 in Supply Case No. 5/2014 as contained in 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. 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)**

B.T/Chandran

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | N.A.       |
| Uploading Date    | 13.02.2018 |
| Transmission Date | N.A.       |

