

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9720 of 2015

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1. Nageshwar Prasad Yadav S/o Late Ram Khelawan Yadav, resident of village -
Kulhariya, P.S.- Parbatta, District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Munger Division, Munger
3. The District Magistrate, Khagaria.
4. The Sub-divisional Officer cum Licensing Authority, Gogari, Khagaria.
5. The Block Supply Officer, Parbatta, Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Adv

For the Respondent/s : Mr. S.K. SHARMA- GA1

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 28-08-2018

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 26.09.2012 passed by the District Magistrate, Khagaria in
Supply Appeal No. 33/2009-10 affirming the order dated 27.11.2009
passed by the Sub Divisional Officer-cum-Licensing Authority, Gogari,
Khagaria by which the licence of the petitioner's Fair Price shop bearing
No. 27P 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 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 para 3 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.

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 27.11.2009 (Annexure-4) and the appellate order dated 26.09.2012 (Annexure-5) are hereby quashed and the matter remanded to the Sub-Divisional Officer-cum-Licensing Authority, Gogari, Khagaria 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. 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)

Chandran/BT

AFR/NAFR	NAFR
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