

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6864 of 2016

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Sachidanand Yadav, S/o Rameshwar Prasad Yadav, Resident of Bakhari, P.S. -
Madhepura, District- Madhepura.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Consumer Protection
Department Bihar, Patna.
2. The Collector, Madhepura.
3. The Sub-Divisional Officer, Madhepura.
4. The Block Supply Officer, Madhepura.

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Advocate

For the Respondents : Mr. Sanjay Kumar, AC to SC 8

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 14-03-2018

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

2. The present writ petition has been filed for setting the
order contained in memo no. 533 dated 02.12.2013 passed by learned
Sub-Divisional Officer, Madhepura, (Annexure-2) by which the license
of the petitioner to run the public distribution shop being license no.
03/2011 has been cancelled and further for quashing the order dated
24.07.2012/31.07.2015 passed by learned Collector-cum-District
Magistrate, Madhepura (Annexure-3) by which the appeal filed on
behalf of the petitioner has been rejected and the order of the learned
S.D.O., Madhepura dated 02.12.2013 was confirmed.

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 22 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 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 24.07.2012/31.07.2015 passed by learned Collector-cum-District Magistrate, Madhepura (Annexure-3) and the impugned order contained in memo no. 533 dated 02.12.2013 passed by learned Sub-Divisional Officer, Madhepura, (Annexure-2) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Madhepura 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.
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Transmission Date	N.A.

