

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9065 of 2016

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Ram Kumar Rai, Son of Late Arjun Rai, resident of Village Madhepur, Police Station Madhepur, District- Madhubani.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
3. The District Magistrate, Madhubani.
4. The Sub-Divisional Officer, Jhanjharpur.
5. The Circle Officer, Madhepur, Jhanjharpur, District- Madhubani.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ashok Kumar Karna, Advocate.

For the Respondents : Mr. Ravindra Kr. Priyadarshi, SC-32

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 28-06-2018

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) Issuance of writ in the nature of certiorari for quashing the office order as contained in Memo No. 34 dated 25.01.2016 whereby and whereunder the respondent no. 4, the Sub-Divisional Officer, Jhanjharpur had cancelled the license of the petitioner only on the ground that the criminal case bearing Madhepur P.S. Case No. 203/13 dated 04.10.2013 is pending against the petitioner which is not sustainable in the eye of law since it is violative of the provision of the amended Control Order, 2011.

(II) Issuance of direction to the respondent to restore the license of the petitioner and allow allotment and lifting of grains and K.Oil without any interruption ad obstruction



by the authority on the ground that the right to conduct business is a fundamental right and any obstruction in its peaceful enjoyment amounts to violation of the fundamental rights granted to the citizen.

(III) Issuance of declaration that order contained in Memo No. 34 dated 25.01.2016 whereby and whereunder the respondent no. 4, the Sub-Divisional Officer, Jhajharpur is illegal and not sustainable in the eye of law since the respondent authorities had cancelled the license of the petitioner without supplying the Enquiry Report to the petitioner and without following the law settled by this Hon'ble court in the case of Dharamdew Chaudhary Vs. the State of Bihar and others (C.W.J.C. No. 4300/2014)."

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-15 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 has been relied upon in the impugned order..

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, as no counter affidavit has been filed till date.

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 25.01.2016 (Annexure-7) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Jhanjharpur, District- Madhubani 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. 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)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.07.2018
Transmission Date	N.A.

