

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8530 of 2018

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Mishri Kumar Yadav @ Mishri Lal Kumar Yadav, Son of Late Banwari Rai,
Resident of Village- Akhtiyarpur, P.S. Sahebganj, District- Muzaffarpur.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Sub Divisional Magistrate (West) Muzaffarpur.
4. The District Supply Officer, Muzaffarpur.
5. The Block Supply Officer, Motipur, Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Nachiketa Jha, Advocate

For the Respondents : Mr. Arvind Ujjwal, SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-05-2018

Heard learned counsel for the petitioner as well as
learned counsel for the respondents.

2. The present writ petition has been filed for the
following reliefs -

“(i) For issuance of an order, direction, writ including writ in the nature of certiorari to quash the order dated 26.10.2016 vide Memo no. 2874 passed by S.D.O. (West) Muzaffarpur whereby the License of P.D.S. shop of the petitioner was cancelled.

(ii) For issuance of an order, direction, writ including writ in the nature of certiorari to quash the order dated 16.10.2017 vide Memo no. 1210 passed by S.D.O. (West) Muzaffarpur whereby he did not consider the submission of the petitioner to hear the petitioner afresh remanded by the District



magistrate, Muzaffarpur on 30.05.2017 vide P.D.S. Case no. 28/2016-2017.

(iii) For issuance of an order, direction, writ including writ in the nature of mandamus to restore the PDS License of the petitioner which was cancelled by SDO (West) Muzaffarpur on 26.10.2016.

(iv) Any other relief that the petitioner may be found to be entitled to in the facts and circumstances of the present case.”

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-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 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 26.10.2017 vide memo No. 1210 (Annexure-8) is hereby quashed and the matter remanded to the Sub-Divisional Magistrate, (West) Muzaffarpur 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/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	25.05.2018
Transmission Date	N.A.

