

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1675 of 2018

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Md. Abbas Alam @ Abbas Alam, Son of Late Zahir Alam, Resident of Village - Farreh, P.S.-Chautham, Distt.-Khagaria.

.... Petitioner

Versus

1. The State of Bihar through the Secretary Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector, Khagaria
3. The Sub-Divisional Officer, Khagaria.
4. The Block Supply Officer, Chautham, District Khagaria.

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Advocate.

For the Respondents : Mr. S. Raza Ahmad, AAG-5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 29-03-2018

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

2. The present writ petition has been filed for setting aside the order contained in Memo no. 491 dated 18.08.2009 passed by learned S.D.O., Khagaria by which the PDS license of the petitioner being license no. 23 C/2007 has been cancelled; and further for quashing the order dated 12.09.2017 passed in Supply Appeal Case No. 12/2013 passed by the learned Collector, Khagaria by which the statutory appeal was dismissed.

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-13 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. Such infirmity could not be cured in the appeal.

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 18.08.2009 (Annexure-5) and the appellate order dated 12.09.2017 (Annexure-6) are hereby quashed and the matter is remanded to the Sub-Divisional Officer, 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. 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)

Md. Ibrarul/BT

AFR/NAFR	NAFR
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