

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19848 of 2016

=====

Ramadhar Singh, S/o Late Ganesh Singh, Resident of Village- Baurahi, P.S.-
Dhanarua, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through Secretary, Food and Civil Supply, Government of Bihar, Patna.
2. The Divisional Commissioner, Patna.
3. The Collector-cum-District Magistrate, Patna.
4. The Sub-Divisional Officer, Masaurhi.
5. The Block Supply Officer, Dhanarua.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Anujit Sinha

For the Respondent/s : Mr. SANJAY KR. GIRI- GP9

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-02-2018

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. 249 dated 04.11.2011 by which
license granted under the provision of PDS order being license no.
294/2008 has been cancelled by the learned S.D.O., Masaurhi, Patna
and further for quashing the appellate order dated 24.07.2013 passed
in PDS Appeal NO. 54/11-12 passed by the learned Collector, Patna by
which the appeal filed by the petitioner was dismissed as well as order
dated 26.07.2016 passed by learned Divisional Commissioner, Patna in
Essential Commodities Act, Revision 518 of 2013 by which the



appellate order as well as original order was affirmed.

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-25 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 and revision as well.

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 in the counter affidavit filed on behalf of the respondents.

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 04.11.2011 (Annexure-3), the appellate order dated 24.07.2013 (Annexure-4) as well as the revisional order dated 26.07.2016 (Annexure-6) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Masaurhi, 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/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	12.02.2018
Transmission Date	N.A.

