

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16969 of 2016

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Nagendra Jha S/o Late Jiwachh Jha, Resident of Village Jainagar, P.S. Bhargama,
District- Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner Food Supplies, Govt. of Bihar, Patna.
2. The Collector, Araria.
3. The Sub Divisional Officer, Forbesganj, District Araria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh, Adv

For the Respondent/s : Mr. Sushil Kumar Mallic, AC to SC 4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 06-03-2018

The present writ petition has been filed for quashing of the order contained in Memo No. 94 dated 10.03.2015 passed by learned Sub-Divisional Officer, Forbesganj; and further for quashing the order dated 08.04.2016 passed in Control Order Appeal No. 03/2015-16 by the learned Collector, Araria by which the appeal filed on behalf of the petitioner was dismissed and order cancelling license dated 10.03.2015 was affirmed.

2. Learned counsel for the petitioner makes a short submission to assail the interim order of cancellation, to the effect that the show cause reply filed by the petitioner was not considered at all. It is further submitted that the infirmity in the cancellation order can not be cured at the stage of appeal and hence the appellate order is vitiated as well.

3. Learned counsel for the respondents opposes the writ petition relying upon the counter affidavit.

4. Having heard the parties and on a careful consideration of



the materials on record, this Court finds merit in the writ petition. The respondents have not controverted the fact that the petitioner had filed the reply to the show cause before the Sub-Divisional Officer, Forbesganj. A perusal of the impugned order of cancellation dated 10.03.2015 (Annexure-6) discloses that the show cause reply of the petitioner has not even been adverted to, much less discussed or reasons given for not accepting the plea of the petitioner.

5. In this view of the matter, the decision making process stands vitiated. The infirmity cannot be cured in appeal nor by reasons supplemented by filing a counter affidavit.

6. The impugned orders dated 10.03.2015 and 08.04.2016 are hereby quashed and the matter is remanded to the Sub-Divisional Officer, Forbesganj for fresh decision after consideration of the petitioner’s show cause reply and after grant of opportunity of hearing to the petitioner in accordance with law.

7. The writ petition stands allowed.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
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