

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11062 of 2016

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Triveni Singh @ Triveni Prasad Singh, Son of Late Subeshwar Prasad Singh
Resident of Village- Goldhu, Police Station- Banka, District- Banka.

.... Petitioner

Versus

1. The State of Bihar
2. Secretary, Department of Food & Consumer Protection, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector, Banka.
4. The Licencing Officer cum Sub Divisional Officer, Banka.
5. The Assistant District Supply Officer, Banka.
6. The Block Supply Officer, Banka.

.... Respondents

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Appearance :

For the Petitioner : Mr. Md. Nurul Hoda, Advocate.

For the Respondents : Mr. Binod Ji Verma, GP-17

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 04-01-2018

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 as contained in memo no. 1236/supply, Banka dated
05.12.2011 issued under the signature of the Licensing Officer cum
Sub-Divisional Officer, Banka whereby and whereunder the licence of
the Fair Price Shop of the petitioner issued under Public Distribution
System bearing Licence No. 06/90 has been cancelled with immediate
effect for the alleged charges of irregularities as well as for setting
aside the order dated 23.02.2016 passed by the District Magistrate-
cum-Collector, Banka in Appeal No. 106/2011-12 by which he



dismissed the Appeal preferred by the petitioner against the aforesaid order of cancellation of licence.

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-8 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 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, 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 05.12.2011 (Annexure-1) as well as the appellate order dated 23.02.2016 (Annexure-2) are hereby quashed and the matter remanded to the Licencing Officer cum Sub-Divisional Officer, Banka 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
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