

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7765 of 2017

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Arbind Kumar Sah, Son of late Bhikan Sah, Resident of Mohalla- Modnuchak,
Laxmi Narayan Lane, P.S.- Mojhahidpur, District- Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar, through Secretary cum Commissioner, Food and Supply, Bihar Patna.
2. The Commissioner, Bhagalpur Division, Bhagalpur.
3. The Commissioner, Food and Civil Supplies, Government of Bihar.
4. Deputy Director, Food and Civil Supplies, Bhagalpur.
5. The Collector, Bhagalpur.
6. The District Magistrate, Bhagalpur.
7. The Sub-Divisional Officer, Sub-Division Supply Branch Sadar, Bhagalpur.
8. The District Food and Civil Supplies Officer, Bhagalpur.
9. The Assistant District Food and Civil Supplies Officer, Bhagalpur.
10. The Marketing Officer, Town Area, Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Bimlendu Shekher Thakur, Advocate
For the Respondents : Mr. Upendra Pratap Singh, AC to SC4
For the BSFC : Mrs. Namrata Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 08-05-2018

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

2. The present writ petition has been filed for quashing the
order contained in Memo No. 678 dated 22.06.2010 by which the Sub-
Divisional Officer-cum-Licensing Authority has cancelled the licence of
the fair price shop of the petitioner; for quashing the order dated
08.01.2016 passed by learned Collector, Bhagalpur in E.C. Misc. Appeal
No. 62/2013-14 by which the aforesaid appeal challenging the order
dated 22.06.2010 has been rejected; and for quashing the order dated



22.02.2017 passed by learned Commissioner in Misc. (Supply) Revision Appeal Case No. 16 of 2016-17 by which the learned Commissioner has refused to interfere with the order of the S.D.O and the order of the Collector.

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 had been relied upon in the impugned order. Such infirmity could not be cured in the appeal as well as in the revision.

4. Learned counsel for the respondents appears and has been heard. The stand of the petitioner with regard to non-supply of the enquiry report has not been controverted in the counter affidavit.

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 revisional order dated 22.02.2017 passed by learned Commissioner in Misc. (Supply) Revision Appeal Case No. 16 of 2016-17; the appellate order dated 08.01.2016 passed by the Collector,



Bhagalpur in E.C. Misc. Appeal No. 62/2013-14; and the impugned order dated 22.06.2010 passed by the Sub-Divisional Officer are hereby quashed and the matter remanded to the Sub-Divisional Officer, Bhagalpur 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. 7.

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/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10.05.2018
Transmission Date	N.A.

