

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.819 of 2017

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Rekha Devi, Wife of Nand Kishore Sada, resident of village - Bharat Mushari,
P.S. Alauli, District - Khagaria

.... Petitioner

Versus

1. The State of Bihar through Secretary, Food & Civil Supply Department, Old Secretariat, Patna
2. The S.D.O. Khagaria.
3. The C.O. Cum Block Supply Officer, Alauli, Khagaria

.... Respondents

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Appearance :

For the Petitioner : Mr. Vijay Anand, Advocate.

For the Respondents : Ms. Namrata Mishra, GA6

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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 challenging the order dated 16.12.2016 passed by S.D.O. Khagaria fully contained in memo no. 392 whereby and whereunder the P.D.S. license granted to the petitioner for carrying on the business is cancelled on the ground that his show cause was not found satisfactory.

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 she 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-12 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.



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 16.12.2016 (Annexure-3) is hereby quashed and the matter is remanded to the Sub-Divisional Officer, Khagaria (respondent no. 2) 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. 2.

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.

Md. Ibrarul/BT

(Vikash Jain, J)

AFR/NAFR	NAFR
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