

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3175 of 2017

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Jagdish Kumar Rai, Son of Late Turantlal Rai, resident of Village - Haripur, P.S.-
Rosera, District- Samastipur.

.... Petitioner

Versus

1. The State of Bihar through Secretary, Food & Civil Supply Department, Old Secretariat Patna.
2. The Collector, Samastipur.
3. The S.D.O. Rosera, Samastipur.
4. The Block Supply Officer, Rosera, Samastipur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Vijay Anand, Advocate

For the Respondents : Mr. Nikhil Kr. Agrawal, AC to GP9

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-04-2018

Heard learned counsel for the petitioner and learned counsel
for the respondents.

2. The present writ petition has been filed for quashing the order dated 31.08.2016 passed by the Collector, Samastipur in Supply Appeal No. 97/2015 whereby and whereunder the appeal preferred by the petitioner was dismissed in affirming the order of cancellation of PDS licence dated 19.10.2015 passed by Sub-Divisional Officer, Rosera, Samastipur.

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 17 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 had 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 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 appellate order dated 31.08.2016 passed by the Collector, Samastipur in Supply Appeal No. 97/2015 (Annexure-6) and the impugned order dated 19.10.2015 (Annexure-5) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Rosera, District Samastipur 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. 3.

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	16.04.2018
Transmission Date	N.A

