

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11206 of 2014

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Gopal Prasad Son of Late Lakhan Ram, resident of Mohalla - Jamalpur Bigha,
P.S. Sheikhpura, District - Sheikhpura.

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate-cum-Collector, Sheikhpura
2. The District Magistrate cum-Collector, Sheikhpura.
3. The Sub-Divisional Officer Sheikhpura, District - Sheikhpura.
4. The Supply Inspector Sheikhpura, District - Sheikhpura.

.... Respondents

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Appearance :

For the Petitioner : Mr. Pankaj Kumar, Advocate

For the Respondents : Mr. Rakesh Kr. Sharma, AC to GP27

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 23-07-2018

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

2. The present writ petition has been filed for the following
reliefs –

“(i) For issuance of an appropriate writ in the Nature of Certiorari for quashing the order dated 07.6.14 passed in Supply Case no. 34/2013-14 passed by Respondent no. 2 whereby and whereunder learned District Magistrate has been pleased to dismiss the appeal filed by the appellant/petitioner against the order dated 15.2.14 passed by Respondent No. 3 contained in his memo No. 95 dated 15.2.2014 whereby Respondent No. 3 was pleased to cancel the licence of petitioner bearing licence No. 01/1986 granted under P.D.S Act.

(ii) Further for setting aside the order dated 15.2.14 passed by Respondent No. 3 contained in his Memo No. 45 dated



15.2.14 whereby the licence of the petitioner bearing licence No. 01/1986 has been cancelled on nonest ground.

(iii) Further for issuance of an appropriate writ in the nature of Mandamus commanding and directing the respondent authority to reinstate or restore the licence of P.D.S. bearing licence No. 01/86 of the petitioner and provide all the requisite supply for running his licence of thela vendor.

(iv) For issuance of any other appropriate writ/writs order/orders direction/directions for which petitioner shall be found entitled under the facts and circumstances of the case stated herein below.”

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 paragraph 12 of 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 07.06.2014 passed in Supply Case no. 34/2013-14 passed by Respondent no. 2 (Annexure-7) and the impugned order contained in Memo No. 45 dated 15.02.2014 (Annexure-5) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Sheikhpura, District Sheikhpura 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. The licence of 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	25.07.2018
Transmission Date	N.A.

