

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14356 of 2016

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Chandeshwar Dubey son of Sri Rameshwar Dubey resident of Village-
Mamarkha P.S.- Areraj, District- East Champaran.

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, East Champaran, Motihari.
2. The Sub-Divisional Officer, Areraj.

.... Respondents

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Appearance :

For the Petitioner : Mr. Vijay Anand, Advocate.

For the Respondents : Mr. Sanjay Kr.Giri, GP-9

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 15-01-2018

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 01.07.2016 passed by District Magistrate,
East Champaran in Supply Appeal Case No. 11 of 2015 whereby and
whereunder the appeal preferred by petitioner against the order of
S.D.O. dated 06.06.2015 was dismissed and affirming the same.

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-15 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 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 06.06.2015 (Annexure-3) and the appellate order dated 01.07.2016 (Annexure-4) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Areraj, East Champaran, 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.

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	19.01.2018
Transmission Date	N.A.

