

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4291 of 2018

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Gaya Prasad Sharma, son of Sri Rupeshwer Sharma, Resident of Village
Kespa, P.S. Alipur, Dist. Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Bihar, Patna.
2. The District Magistrate, Gaya
3. The Sub-Divisional Officer, Tikari, Dist. Gaya
4. The Block Supply Officer, Tikari, Dist. Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binay Kumar, Adv

For the Respondent/s : Mr. ARVIND UJJWAL-SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 27-03-2018

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

2. The present writ petition has been filed for quashing the
order contained in memo no. 1062 dated 09.12.2017 passed by the
Sub-Divisional Officer, Tikari, District Gaya by which licence of the
petitioner's Fair Price shop bearing no. 23/90 has been cancelled and
monthly allotment has been stopped; and further to restore the
petitioner's licence.

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 para 10 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.

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, as no counter affidavit has been filed till date.

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 09.12.2017 (Annexure-4) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Tikari, District Gaya (respondent no. 3) 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)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
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