

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12205 of 2018

=====

Brahmdeo Rai @ Braahm Deo Mahto, son of Late Budhan Mahto, resident of village and P.O. Rachiyahi, P.S. Mufassil, District Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector, Begusarai, Dist. Begusarai.
3. The Sub-Divisional Officer, Begusarai, Dist. Begusarai.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Adv

For the Respondent/s : Mr. S.RAZA AHMAD -AAG5

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-07-2018

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. 487 dated 20.09.2011 passed by the Sub-Divisional Officer, Begusarai and the appellate order dated 20.03.2018 in Misc. Appeal (PDS) Case No. 91/2011 passed by the Collector-cum-District Magistrate, Begusarai by which the licence of the petitioner's Fair Price shop bearing no. 104/2007 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 13 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.

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 20.09.2011 (Annexure-1) and the appellate order dated 20.03.2018 (Annexure-4) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Begusarai 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
Uploading Date	05.07.2018
Transmission Date	NA

