IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20731 of 2014

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Umesh Thakur son of Sri Doman Thakur, resident of Village-Dongila, P.KS. Banke Bazar, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through Collector , Gaya.
2. The S.D.O. Sherghati, Gaya.
3. The Block Supply Officer, Banke Bazar, Sherghati, Gaya.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Vijay Anand, Adv
For the Respondent/s : Mr. Sarvesh Kr. Singh, AAG 13
Mrs. Sunita Kumari, AC to AAG 13

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 02-08-2018

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. 27 dated 05.02.2013 passed by the Sub-Divisional Officer, Sherghati, Gaya as also the appellate order dated 02.09.2014 passed in Supply Appeal No. 18/2013 by the District Magistrate-cum-Collector, Gaya by which the licence of the petitioner's Fair Price shop bearing no. 166/2007 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

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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 12 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 05.02.2013 (Annexure-3) and the appellate order dated 02.09.2014 (Annexure-4) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Sherghati, Gaya 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. Licence of 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

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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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Transmission Date	NA

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