

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20124 of 2016

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Ashok Kumar Shukla, aged about 55 years, son of Late Baidyanath Shukla, resident of Gangolia, Police Station - Saraiya, Block - Saraiya, District - Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Food and Consmuer Protection, Government of Bihar, Patna
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna
3. The District Magistrate, Muzaffarpur
4. The Sub Divisional Officer, Muzaffarpur West, Muzaffarpur
5. The Block Supply Officer, Motipur, Muzaffarpur
6. The Block Supply Officer, Paru, Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner : Mr. Anand Kumar Ojha, Advocate.
For the Respondents : Mr. S. RAZA Ahmad, AAG-5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT
Date: 28-06-2018

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) Issuance of writ in the nature of certiorari for quashing the cancellation order as contained in Memo No. 2873 dated 26.10.2016 passed by respondent no. 4 whereby and whereunder the respondent authority had cancelled the license of the petitioner without supplying the Enquiry Report to the petitioner as well as without considering the submission/reply of the petitioner and the



respondent authority had also not considered that this Hon'ble Court had already settled the issue that license of the Public Distribution System shop cannot be cancelled without supplying the Enquiry Report to the petitioner. .

(II) Issuance of direction to the respondent to restore the license of the petitioner and allow allotment and lifting of grains and K. Oil without any interruption and obstruction by the authority on the ground that the right to conduct business is a fundamental right and any obstruction in its peaceful enjoyment amounts to violation of the fundamental rights granted to the citizen.

(III) Issuance of declaration that order contained in Memo No. 2873 dated 26.10.2016 passed by respondent no. 4 is illegal and not sustainable in the eye of law since the respondent authorities had cancelled the license of the petitioner on the dictates of the higher officials namely Collector which is contrary to the law settled by this Hon'ble Court.

(IV) Issuance of declaration that licensing authority has no jurisdiction to cancel the license when during allegations the petitioner was allowed for lifting the food grains and K. Oil.

(V) Issuance of declaration that in the absence of critically and urgency for inspection of shop at late hours without any prior notice by the officials of other block, the cancellation order is bad in law.

(VI) Issuance of further declaration that none consideration of specific plea of delayed lifting of grains taken in the reply, the order of cancellation of license violates the principles of natural justice.

(VII) Issuance of further declaration that the inspection



was illegal hence the cancellation order was also bad."

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 nos. 2 and 7 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.

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 26.10.2016 (Annexure-3) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Muzaffarpur, West, Muzaffarpur 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. 4.

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/BT

AFR/NAFR	NAFR
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