

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14920 of 2015

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Mahendra Sao son of Late Bishnu Dayal Sao resident of Chandpur Bela, P.S. -
Jakkanpur, Distt. - Patna.

.... .. Petitioner/s

Versus

1. The State of Bihar through the Joint Secretary, Food & Consumer Protection Department, Patna.
2. The Collector, Patna.
3. The Special Officer, Rationing, Patna.
4. The Assistant Rationing Officer, Patna.

.... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. N.K.Agrawal, Sr. Adv
Mr. Vijay Anand, Adv

For the Respondent/s : Mr. SC1- N. HODA KHAN
Ms. Babita Kumari, AC to SC 1

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-08-2018

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

2. The present writ petition has been filed for quashing the order dated 26.02.2014 passed by the District Magistrate-cum-Collector, Patna in E.C. Appeal No. 103/2012-13 affirming the order dated 28.08.2012 passed by the Special Officer, Rationing, Patna by which the licence of the petitioner granted under the provision of Bihar Trade Articles (Licence Unification) Order, 1984 for carrying on business of K.oil Thela vendor 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 21 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 28.08.2012 (Annexure-1) and the appellate order dated 26.02.2014 (Annexure-2) are hereby quashed and the matter remanded to the Special Officer, Rationing, Patna 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. 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/Md. Ibrarul

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