

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.848 of 2017

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Waqil Prasad, son of Sri Sitab Rai, residence of Village- Kaladiyara, P.S.-
Bakhtiyarpur, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through the Collector Patna.
2. The Sub Divisional Officer Barh, Patna.
3. The Additional District Supply Officer, Barh, Patna.
4. The Block Supply Officer Bakhtiyarpur, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Murli Manohar Singh, Advocates.

For the Respondents : Mr. Sanjay Kr. Giri, GP-9

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 22-02-2018

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

2. The present writ petition has been filed for setting aside
the order dated 13.01.2014 issued under Memo No. 13 by which the
license of the petitioner being license no. 465 of 2007 granted under
the provision of Fair Price Shop Order, 2001 for carrying of business of
fair price shop has been cancelled even without given any show cause
notice and without supplying the enquiry report by S.D.O., Barh.

3. Learned counsel for the petitioner makes a short
submission to assail the impugned order on the ground that show
cause notice was not served upon the petitioner nor any copy of the
inquiry report were given and he was never given any opportunity of
being heard or adducing evidence in that regard. A specific stand has
been taken in para-5 of the writ petition that the impugned order of
cancellation of licence has been passed without serving show cause
notice to the petitioner nor any copy of the enquiry report were
supplied to him. Thus, there is a clear violation of principles of natural
justice.

4. Learned counsel for the respondents appears and has been
heard. The stand of the petitioner with regard to non-service of show



cause notice to the petitioner nor supply of any copy of the enquiry report was made to him 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-service of the show cause notice to the petitioner and non-supply of the copy of the enquiry report to him has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 13.01.2014 (Annexure-1) is hereby quashed and the matter remanded to the Sub-Divisional Officer,Barh, Patna for taking decision afresh in the matter after serving show cause notice and supplying of the copy of the enquiry report 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. 2.

6. It is made clear that in case the stand of the petitioner denying non-service of show cause notice 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/-

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