

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9180 of 2015

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Anand Kishore Giri, Son of Sri Devenand Giri, Resident of Village- Rajapur Mathia, Panchayat- Jasauli, P.S.- Kotwa, District- East Champaran.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supply, Government of Bihar, Patna.
2. The District Magistrate, East Champaran, Motihari.
3. The District Supply Officer , East Chamaparan, Motihari.
4. The Sub-Divisional Officer, Motihari Sadar, District- East Champaran, Motihari
5. The Block Supply Officer, Kotwa, District- East Champaran, Motihari.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rakesh Kumar

For the Respondents : Mr. SC18- N. HODA KHAN

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 15-05-2018

I.A. No. 3906 of 2018

The interlocutory application has been filed for amendment in the writ petition by adding the following prayer for quashing the order dated 13.10.2015 passed in Case No. 54 of 2014 by which the appeal of the petitioner has been rejected by the District Magistrate, East Champaran, Motihari.

2. Having regard to the nature of the prayer, the I.A. No. 3906 of 2018 is allowed and the petitioner is permitted to make appropriate amendment in the writ petition and the same shall be treated as forming part of the writ petition.



C.W.J.C. No. 9180 of 2015

3. The main writ petition has been filed for the following reliefs –

“(i) To issue a writ in the nature of certiorari to quash and cancel the Memo NO. 521 dated 27.12.2014 (Annexure-4 hereof) passed by the learned S.D.O., Sadar, East Champaran, Motihari whereby and whereunder the P.D.S. Shop license No. 02190015/2007 of the petitioner has been cancelled without following the contemplated process of law as set-out in Bihar Control order and the Principal of Law laid down by this Hon’ble Court.

(ii) To hold and declare that the cancellation of said licence of the P.D.S. shop of petitioner is bad in law and fit to be quashed and cancelled.

(iii) To issue a writ in the nature of mandamus to reinstate and restore the said licence of P.D.S. shop of petitioner in its original status for doing the dealing and business of shop what was being carrying out prior to cancellation of license.

(iv) To grant any other reliefs for which petitioner is entitled to have in connection with the aforesaid grievance.”

4. 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-3 of the interlocutory application 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.

5. 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.

6. 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 27.12.2014 (Annexure-4) and the appellate order dated 13.10.2015 passed in Case No. 54 of 2014 (Annexure-6) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Motihari Sadar, District- East Champaran, Motihari 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.

7. 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.

8. The writ petition stands allowed as above.



(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	17.05.2018
Transmission Date	N.A.

