

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9990 of 2017

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Phulwa Devi, W/o Late Shambhu Bhuiya, Resident of Village-Pathalkatti,
Panchayat-Gopalpur, P.S. - Sherghati, District-Gaya.

.... Petitioner

Versus

1. The State of Bihar, through the Secretary, Department of Food & Consumer Protection, Government of Bihar, Patna.
2. The Collector, Gaya.
3. The Sub Divisional Officer, Sherghati, Gaya.
4. The Block Supply Officer, Sherghati, gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Advocate

For the Respondents : Mr. S. Raza Ahmad- AAG5

Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-04-2018

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. 390 dated 03.08.2013 by which the licence granted under the provisions of PDS Order for carrying on business being license no. 393/2007 has been cancelled by learned S.D.O., Sherghati; and further for quashing the appellate order dated 07.04.2017 passed in Supply Case No. 36 of 2013 by the District Magistrate, Gaya.

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 she



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 16 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. The stand of the petitioner with regard to non-supply of the enquiry report has not been controverted in the counter affidavit.

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 appellate order dated 07.04.2017 passed by the Collector, Gaya in Supply Case No. 36 of 2013 (Annexure-4) and the impugned order dated 03.08.2013 (Annexure-3) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Sherghati, District 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. Supplies to 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)

B.T/Chandran

AFR/NAFR	NAFR
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