

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16815 of 2016

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Dilraj Sah, son of Late Jaduni Sah, resident of village - Chakiya, P.S. - Sikrahata,
District - Bhojpur (Ara).

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Secretary, Food and Consumer Protection Department, Government of Bihar at Patna.
3. The District Officer-cum-Collector, Bhojpur, Ara.
4. The District Supply Officer, Bhojpur.
5. The Sub-Divisional Officer-cum-Licensing Authority, Piro (Bhojpur).
6. The Sub Divisional Supply Officer, Sandesh (Bhojpur).
7. The Sub Divisional Supply Officer, Tarari (Bhojpur).

.... Respondents

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Appearance :

For the Petitioner : Mr. Diwakar Upadhyaya
Mr. D.N. Tewari,
Mr. Anujit Sinha, Advocates

For the Respondents : Mr. Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 08-02-2018

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 02.02.2016 passed by the Collector, Bhojpur, Ara in
Revenue Appeal Case No. 36/2011-12 which was preferred against the
order dated 22.10.2011 contained in Memo No. 707/Aa, passed by
learned Sub-Divisional Officer-cum-Licensing Authority, Piro [under
the Public Distribution System (Control) Order, 2001], whereby the
P.D.S. shop licence (Licence No. 39/2017) of the petitioner has been
cancelled.



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 12 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, as no counter affidavit has been filed till date even though about two years have elapsed since the writ petition was filed.

5. In the above view of the matter, this Court is satisfied that non-supply of a copy 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 02.02.2016 passed by the Collector, Bhojpur, Ara in Revenue Appeal Case No. 36/2011-12 and the impugned order dated 22.10.2011 contained in Memo No. 707/Aa are hereby quashed and the matter remanded to the Sub-Divisional Officer, Piro, Bhojpur 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. 5.

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
CAV DATE	N.A.
Uploading Date	13.02.2018
Transmission Date	N.A.

