

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17100 of 2015

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Des Raj Ram S/o late Katwaru Ram Vill- Barkagaown, P.S. Mirganj, Block Office
Hathua, District Gopalganj.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Civil Supply Department, Govt. of Bihar.
2. The District Magistrate, Gopalganj.
3. The District Supply Officer, Gopalganj.
4. The Sub-Divisional Officer, Hathua Gopalganj.
5. The Block Supply Officer, Hathua ,Gopalganj.

.... Respondents

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Appearance :

For the Petitioner : Mr. Shubhesh Pandey, Advocate

For the Respondents : Ms. Madhu AC to SC33

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 05-09-2018

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

2. The present writ petition has been filed for the following
reliefs –

“(a) For issuance of appropriate writ to in the nature of Mandamus directing and commanding the Respondents concerned to restore the PDS license of the petitioner by quashing the order passed by the learned District Magistrate, Gopalganj in the Supply Appeal bearing No. 03/2015, whereby and where under the D.M. Gopalganj has denied to interfere with the order passed by the learned SDM, Hathua vide the order contained in Memo no. 2410 C/2014 dated 29-12-2014 and thereby the order of cancellation of the PDS License of the petitioner has been



kept intact.

(b) For setting aside the order contained in a letter bearing No. – 2410 dated 29-12-2014 issued by the S.D.M. Hathua, Gopalganj, whereby and where under the learned S.D.M., Hathua, Gopalganj has cancelled the PDS license of the petitioner without any valid reason and only on the sweet will of the local officials.

(c) For the issuance of any other Relief/Reliefs to which the petitioner may be found entitled to in the facts and circumstances of the present case.”

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 8 of the supplementary affidavit 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 01.07.2015 passed by the Collector, Gopalganj in Supply Appeal Case No. 03/2015 (Annexure-4) and the impugned order dated 29.12.2014 (Annexure-3) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Hathua, District Gopalganj (respondent no. 4) 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. 4.

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.
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