

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19415 of 2016

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Hariji Rai, Son of Late Anup Rai, Resident of Village - Narayanpur, P.S. Pupari,
District - Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department Food and Civil Supply, Govt. of Bihar, Patna.
2. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
3. The Collector, Sitamarhi.
4. The Sub Divisional Officer, Pupari, District - Sitamarhi.
5. The Block Supply Officer, Pupari, District - Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner : Mr. Bishwa Nath Chaudhary, Advocate

For the Respondents : Mr. Sanjay Kr.Giri-GP9

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 02-01-2018

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

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

“(i) For issuance of order(s), direction(s), Writ(s) particularly in the nature of certiorari quashing the order dated 24.05.2016 passed in P.D.S. Revision Case no. 91/2016 by the Respondent no. 2 whereby and whereunder the Respondent no. 2 dismissed the Revision filed by the petitioner and upheld the order of Respondent no. 3.

(ii) For issuance of order(s), direction(s), Writ(s) particularly in the nature of writ of Certiorari quashing the order dated 10.11.2014 passed by the Collector,



Sitamarhi, Respondent no. 3 in Supply Appeal Case no. 06/2013 whereby and whereunder the Collector, Sitamarhi dismissed the appeal filed by the petitioner and upheld the order of Sub-divisional Officer, Pupri Respondent no. 4.

(iii) For further issuance of writ of certiorari quashing the order dated 26.10.2012 contained in memo no. 637 passed by the Sub Divisional Officer, Pupri, Respondent no. 4 whereby the PDS Licence of the petitioner has been cancelled without any reasonable and valid ground.

(iv) For any other relief(s) for which the petitioner is entitled for in the facts and circumstances of this 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 as well as copy of the complaint petition were 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 18 of the writ petition that the impugned order of cancellation of licence has been passed without providing a copy of the enquiry report as well as a copy of the complaint petition 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 as in the revision.

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



report as well as copy of the complaint petition 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 as well as complaint petition to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The revisional order dated 24.05.2016 passed in P.D.S. Revision Case No. 91/2016 (Annexure-7); the appellate order dated 10.11.2014 passed in Supply Appeal Case No. 06/2013 (Annexure-4) as well as the impugned order dated 26.10.2012 contained in Memo no. 637 (Annexure-3) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Pupari, District Sitamarhi for taking decision afresh in the matter after supplying a copy of the enquiry report as well as a copy of the complaint petition 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.

6. It is made clear that in case the stand of the petitioner denying receipt of the enquiry report as well as complaint petition 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.



B.T/Chandran

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	03.01.2018
Transmission Date	N.A.

