

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17814 of 2015

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1. Balaram Prasad Son of Late Roopchand Sao Resident of Village - Gowalbigha,
Police Station - Rampur, District - Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Old Secretariat, Patna.
2. The District Magistrate-cum-Appellate Authority, District - Gaya.
3. The Sub-Divisional Officer, Sadar Gaya, District - Gaya.
4. The Block Supply Officer, Manpur, District - Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Kumar Singh, Adv

For the Respondent/s : Mr. SC23- KUMAR PRIYA RANJAN

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-08-2018

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

2. The present writ petition has been filed for quashing the
order dated 19.06.2014 passed by the Commissioner, Magadh Division,
Gaya, passed in Supply Revision No. 127/2013 dismissing the revision on
the ground of limitation, the appellate order dated 18.06.2012 in Supply
Appeal No. 61/2008 passed by the District Magistrate, Gaya, as also the
impugned order dated 31.12.2007 passed by the Sub Divisional Officer,
Sadar, Gaya by which the licence of the petitioner's Fair Price shop
bearing no. 04/1985 has been cancelled and monthly allotment has been
stopped; and further to restore the petitioner's licence.



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 and statement of the persons making the complaint 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 para 12 and 13 of the writ petition that the impugned order of cancellation of licence has been passed without providing a copy of the enquiry report and statement of the persons making complaint 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. A counter affidavit has been filed on behalf of the respondents in which the stand of the petitioner has not been controverted.

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 impugned order dated 31.12.2007 (Annexure-2), the appellate order dated 18.06.2012 (Annexure-3) and the revisional order dated 19.06.2014 (Annexure-6) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Sadar, 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.



Licence of 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)

Chandran/Md. Ibrarul

AFR/NAFR	NAFR
CAV DATE	NA
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