

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5769 of 2018

=====

Yugeshwer Prasad the Chairman of Kurmawan P. A. C. S. Son of Late Mahadeo Mahto, Resident of Village- Kurmawan, Police Station- Cherki, District- Gaya.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Department of Food and Consumers Protection, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub-Divisional Officer, Sadar Gaya, District- Gaya.
4. The Block Supply Officer, Bodh Gaya, Dist.- Gaya.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Binay Kumar, Advocate

For the Respondents : Mr. Maruth Nath Ray, AC to SC4

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-04-2018

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

2. The present writ petition has been filed for quashing the order dated 15.11.2017, contained in memo no. 791 passed by learned Sub-Divisional Officer, Sadar Gaya, Gaya whereby the P.D.S. Licence No. 05/12 of the petitioner granted under Public Distribution System, Control) Order, 2016 has been cancelled; and for direction upon the respondent no. 3 to continue allocation to the PDS shop of the petitioner.

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 9 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

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.

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 15.11.2017 contained in Memo No. 791 (Annexure-3) is hereby quashed and the matter is remanded to the Sub-Divisional Officer, Sadar Gaya, 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
CAV DATE	N.A.
Uploading Date	07.04.2018
Transmission Date	N.A.

