

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7168 of 2018

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Muneshwar Prasad Yadav @ Muneshwar Ray, Son of Late Ram Bilash Ray,
resident of Village- Narayanpur, P.O. Rahampur, P.S. Garkha, District- Saran at
Chapra.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Conservation Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Saran Division, Chapra.
3. The District Magistrate, Saran at Chapra, District- Saran at Chapra.
4. The Sub-Divisional Officer, Sadar Chapra, District Saran at Chapra.
5. The Block Development Officer, Garkha, District- Saran at Chapra.
6. The Block Supply Officer, Parsa, District- Saran at Chapra.

.... Respondents

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Appearance :

For the Petitioner : Mrs. Anita Kumari, Advocate.

For the Respondents : Mr. Arvind Ujjwal, SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 05-07-2018

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 an appropriate writ in the nature of
CERTIORARI for quashing the order dated 06.03.2018
passed by the respondent no. 3 in Supply Appeal Case No.
36 of 2016, whereby and whereunder the respondent no. 3
has been pleased to reject the appeal filed by the petitioner
against the order dated 22.10.2016 passed by the
respondent no. 4 whereby and whereunder the respondent
no. 4 has been pleased to cancel the Public Distribution
System (hereinafter referred to as P.D.S.) License of the*



petitioner.

(II) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 22.10.2016 passed by the respondent no. 4 and issued under his memo no. 1211 dated 22.10.2016 whereby and whereunder respondent no. 4 has been pleased to cancel the P.D.S. license of the petitioner in view of the enquiry report submitted to him by the respondent nos. 5 and 6.

(III) For issuance of an appropriate writ in the nature of MANDAMUS commanding and directing the respondent authorities to restore the license of the petitioner and to restore supply for the consumers who were earlier associated with the P.D.S. shop of the petitioner.

(IV) For issuance of any other writ/srits, order/orders, direction/directions for which the writ petitioner would be found entitled in the facts and circumstances of the 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 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 has been relied upon in the impugned order. Such infirmity could not be cured in the appeal.

4. Learned counsel for the respondents appears and has been heard. The stand of the petitioner with regard to non-supply of 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 22.10.2016 (Annexure P-3) and the appellate order dated 06.03.2018 (Annexure P-4) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Sadar Chapra, 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. 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)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	06.07.2018
Transmission Date	N.A.

