

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8219 of 2018

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Satendra Prasad, Son of Late Shivrath Singh, Resident of Village- Rehua, Post-Nimthu, P.S.- Neemchak Bathani, District- Gaya.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Gaya, District- Gaya.
4. The Sub- Divisional Officer, Neemchak Bathani, District- Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate

For the Respondents : Mr. Upendra Pratap Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 14-05-2018

Heard learned counsel for the petitioner as well as learned
counsel for the respondents.

2. The present writ application has been filed for the
following reliefs --

“(i) Certiorari for quashing and setting aside the order passed by the Sub-Divisional Officer, Neemchak Bathani, Gaya vide Memo No. 1956 dated 03.12.2014 whereby and whereunder license of the petitioner’s Fair Price Shop bearing No. 25/08 has been cancelled as well as quashing the order passed by the same authority vide Memo No. 2002 dated 06/12/2014 by which license No. has been amended as 11/2008 on the place of 25/08 contained in Annexure-1(Series) and quashing and setting aside the



order dated 28/01/2016 passed by the learned District Magistrate, Gaya in Supply Case No. – 41/14 contained in Annexure – 4 whereby and whereunder appeal filed by the petitioner against the cancellation order has been rejected and quashing and setting aside the order dated 13/02/2018 passed by the learned Commissioner, Magdh Division, Gaya in Supply Revision Case No. 19/2017 contained in Annexure – 5 whereby and whereunder revision filed by the petitioner against the appellate order has been rejected.

(ii) A mandamus commanding the Respondents to restore the petitioner's license as before and to make allotment for the petitioner's shop.

(iii) Any other relief or reliefs for which petitioner may be found entitled in the fact and circumstances of the present case may be granted to him."

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 15 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. Such infirmity could not be cured in the appeal as well 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 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 revisional order dated 13.02.2018 passed in Revision Case No. 19/2017 (Annexure-5), the appellate order dated 28.01.2016 passed by the Collector, Gaya in Supply Case No. 41 of 2014 (Annexure-4) and the impugned orders dated 03.12.2014 as well as 06.12.2014 (Annexure-1 series) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Neemchak Bathani, 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. 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.

B.T/Chandran

(Vikash Jain, J)



AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.05.2018
Transmission Date	N.A.

