

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18647 of 2017

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Nand Kishore Modi, Son of Late Asharfi Modi, Resident of Village-Shambhuganj, Police Station- Shambhuganj, District- Banka.

.... Petitioner

Versus

1. The State of Bihar.
2. Secretary, Department of Food & Consumer Protection, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector, Banka.
4. The District Supply Officer, Banka.
5. Sub Divisional Officer, Banka.
6. District Manager, Bihar State Food Corporation, Shambhuganj, Banka.
7. Assistant Godown Manager, Bihar State Food Corporation, Shambhuganj, Banka.
8. Block Supply Officer, Shambhuganj, Banka.
9. Inspector, Legal Metrology, Banka.

.... Respondent

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Appearance :

For the Petitioner : Mr. Md. Nurul Hoda, Advocate.

For the Respondents : Mr. Arbind Ujjawal, SC-4
Mr. Maruth Nath Roy, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 25-01-2018

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

2. The present writ petition has been filed for setting aside the order as contained in Memo No. 633/Supply, Banka, dated 12.07.2017 issued under the signature of the Sub-Divisional Officer, Bank by which he cancelled the license of the Public Distribution System (P.D.S.) shop of the petitioner bearing License No. 78/2012 for the alleged charges of irregularities (Annexure-9 to the writ application), as well as to direct the respondent authority to restore



the license forthwith.

3. Learned counsel for the petitioner makes a short submission to assail the impugned order on the ground that show cause notice was not issued to the petitioner and he was never given an opportunity of being heard or adducing evidence in that regard. A specific stand has been taken in paragraph-16 of the writ petition that the impugned order of cancellation of licence has been passed without issuing show cause notice to the petitioner. Thus, there is a clear violation of principles of natural justice.

4. Learned counsel for the respondents appears and has been heard. The stand of the petitioner with regard to non-issuance of show cause notice to the petitioner has not been controverted in the counter affidavit filed on behalf of the respondents. .

5. In the above view of the matter, this Court is satisfied that non-issuance of show cause notice to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 12.07.2017 (Annexure-9) is quashed and the matter remanded to the Sub-Divisional Officer, Banka for taking decision afresh in the matter after issuing show cause notice 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. 5.

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
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