

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10172 of 2017

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Vijay Bahadur Ram, Son of Late Ram Sajan Ram, Resident of Village-
Aamthuwan, Post- Ariyaw, P.S.- Krishna Barahm, District- Buxar.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Buxar, District- Buxar.
3. The Sub-Divisional Officer, Dumraun, District- Buxar.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate

For the Respondents : Mr. Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-04-2018

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

2. The present writ petition has been filed for quashing and setting aside the order passed by the Sub-Divisional Officer, Dumraun issued vide memo No. 540 dated 07.06.2007 (Annexure-1) whereby and whereunder licence of the petitioner's Fair Price Shop has earlier been suspended and after that the same has been cancelled for the same charges; and for quashing and setting aside the order dated 30.03.2017 passed by learned District Magistrate, Buxar in Case No. 68/2007 (Supply) contained in Annexure-4 whereby and whereunder appeal filed by the petitioner against the cancellation order has been rejected and affirmed the cancellation order; and for restoring the petitioner's licence as before and to make allotment for the petitioner's



shop.

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 3 of the supplementary affidavit 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.

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 appellate order dated 30.03.2017 passed by learned District Magistrate, Buxar in Case No. 68/2007 (Supply) (Annexure-4) and the impugned order dated 07.06.2007 (Annexure-1) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Dumraun, District Buxar 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.
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Transmission Date	N.A.

