

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17980 of 2017

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Rajendra Prasad, son of Ramdhani Yadav, resident of village Tirma, Gram Panchayat Bhare, P.S. Fatehpur, District Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food & Consumer Protection Department, Bihar, Patna.
2. The Collector, Gaya
3. The District Supply Officer, Gaya
4. The Sub-divisional Officer, Sadar, Gaya
5. The Block Supply Officer, Mohanpur, Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Adv

For the Respondent/s : Mr. ARBIND UJJAWAL - SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 26-02-2018

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

2. The present writ petition has been filed for quashing the order contained in memo no. 742 dated 10.11.2017 passed by the Sub-Divisional Officer, Sadar, Gaya by which licence of the petitioner's Fair Price shop bearing no. 39/07(old)/26/2016(new) has been cancelled and monthly allotment has been stopped; and further to restore the petitioner's licence.

3. Learned counsel for the petitioner makes a short submission to assail the impugned order on the ground that neither the show cause notice dated 13.10.2017 was served nor a copy of the inspection report was 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 para 12 and 25 of the writ petition that the impugned order of cancellation of licence has been passed without serving show cause notice and providing a copy of the inspection 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-service of show cause notice and non-supply of inspection 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-service of show cause notice and non-supply of the inspection report to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 10.11.2017 (Annexure-1) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Sadar, Gaya for taking decision afresh in the matter after serving a show cause notice and supplying a copy of the inspection 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 service of show cause notice and receipt of the inspection 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)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
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