

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14857 of 2017

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Balmiki Prasad, Son of Late Dukhi Mahto, Resident of Village- Gaibee, Police Station- Rahui, District- Nalanda.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food & Civil Supply, Government of Bihar, Patna.
2. The Divisional Commissioner, Patna.
3. The District Magistrate, Nalanda.
4. The Sub-Divisional Officer, Bihar Sharif, Nalanda
5. The Block Supply Officer, Rahui, District- Nalanda.

.... Respondents

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Appearance :

For the Petitioner : Mrs. Nivedita Nirvikar
Mr. Manoj Kumar, Advocates
For the Respondents : Mr. Alok Ranjan, AC to AAG5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 02-04-2018

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 writ in the nature of certiorari for quashing the Revisional Order dated 1/08/2017 passed by the Divisional Commissioner, Patna in Essential Commodities Act, Revision 364 of 2015, the Appellate Order dated 24/03/2015 passed by the District Magistrate, Nalanda in Supply Appeal No. 10 of 2014 as well as the Order cancelling the P.D.S. license of the petitioner bearing License No. 27 of 2007 as contained in Memo No. 1207/Aa. Dated 17.10.2014 (Annexure – 6, 4, 3 respectively to this application).



(ii) For directing the licensing authority to restore the P.D.S license No. 27 of 2007 in name of the petitioner and further be allotted his unit of the fair price shop to distribute among the respective consumers.

(iii) For any other relief/reliefs for which the petitioner is entitled for.”

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 7 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 and in the revision 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 in the counter affidavit.

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 01.08.2017 (Annexure-6), appellate order dated 24.03.2015 passed by the Collector, Nalanda in



Supply Appeal No. 10 of 2014(Annexure-4) and the impugned order dated 17.10.2014 (Annexure-3) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Bihar Sharif, District Nalanda (respondent no. 4) 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)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	03.04.2018
Transmission Date	N.A.

