

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14592 of 2017

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Shiv Prasad Rai, S/o late Sundar Rai, Resident of Village- Malkour, Panchayat -
Dhrubgama, P.S. Pusa, District- Samastipur.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Consumer Protection
Department, Bihar, Patna.
2. The District Magistrate-cum-Collector, Samastipur.
3. The Sub-Divisional Officer, Samastipur.
4. The Block Supply Officer, Pusa, Samastipur.

.... Respondents

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Appearance :

For the Petitioner : Mr. N.K. Agrawal, Sr. Advocate
Mr. Dhananjaya Nath Tiwari, Advocate
For the Respondents : Mr. Lalan Kumar, AC to GP9

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 08-03-2018

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

2. The present writ petition has been filed for quashing the
order dated 10.02.2016 issued vide memo no. 171/Aa dated
10.02.2016 by which the licence granted under the provision of Fair
Price Shop Order and/or PDS Order for carrying on business of Fair
Price Shop has been cancelled and further for quashing the order
dated 30.06.2017 passed in PDS Appeal Case No. 24/2016 passed by
learned Collector, Samastipur by which the statutory appeal filed on
behalf of the petitioner has been rejected.

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 10 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.

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 30.06.2017 passed by the Collector, Samastipur in PDS Appeal Case No. 24/2016 (Annexure-6) and the impugned order contained in memo no. 171/Aa dated 10.02.2016 (Annexure-5) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Samastipur 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.

B.T/Chandran

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	12.03.2018
Transmission Date	N.A.

