

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10978 of 2018

=====

Ram Kishun Paswan, son of Chandev Paswan, resident of Village- Sikandrapur,
Panchayat- Taranagar, P.S. Bihta, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The District Magistrate, Patna, District- Patna.
3. The Assistant District Supply Officer Danapur, District- Patna.
4. The Sub-Divisional Office cum Licensing Authorities, Danapur, District- Patna.
5. The Block Supply Officer, Naubatpur, Block- Naubatpur, District- Patna.
6. The Block Supply Officer, Maner, Block- Maner, district- Patna.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Anil Chandra, Advocate.

For the Respondents : Mr. S. RAZA Ahmad, AAG-5

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 25-06-2018

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) To quash the order passed by the Sub-Divisional Officer, Danapur, Patna (respondent no. 4) who has cancelled the P.D.S. Shop license of the petitioner being License No. 30/2007 vide Memo No. 284 dated 19.02.2015 (Annexure-4).

(ii) To quash the order dated 05.04.2018 passed in E.C. Appeal No. 83/2014-16 by which the learned District Magistrate, Patna (respondent no. 2) has rejected the appeal and confirmed the order passed by respondent



no. 4 (Annexure-5)

(iii) To restore the P.D.S. shop license of the petitioner bearing License No. 30/07.

(iv) To pass any other appropriate order/orders as your lordship may deem fit and proper for the end of justice."

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-14 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 has been relied upon in the impugned order. Such infirmity could not be cured in the appeal.

4. Learned counsel for the respondents appears and has been heard. The stand of the petitioner with regard to non-supply of 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 impugned order dated 19.02.2015 (Annexure-4) and the



appellate order dated 05.04.2018 (Annexure-5) are hereby quashed and the matter remanded to the Sub-Divisional Officer cum Licensing Authorities, Danapur, Patna 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)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28.06.2018
Transmission Date	N.A.

