

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8233 of 2019

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Ghurni Devi W/o Sukhdeo Dharikar, Aged about 51 years, R/o Village - Nawada, Panchayat-Nawada, P.S.-Bheja, Block-Madhepur, District Madhubani.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna.
2. The District Magistrate - cum- Collector Madhubani.
3. The Sub- Divisional Officer Jhanjharpur.
4. The Block Supply Officer Madhepur.

... .. Respondents

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Appearance :

For the Petitioner : Mr.Akash Chaturvedi, Advocate
For the Respondents : Mr.Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 11-06-2019

This matter has been heard and is being taken up for final disposal at the admission stage itself with consent of the parties.

2. The present writ petition has been filed for the following reliefs as formulated by the petitioner :

“(i) For issuance of writ in the nature of certiorari for quashing of order dated 02.02.2019 issued by vide Memo No. 57 dated 02.02.2019 passed by the Sub Divisional Officer, Jhanjharpur whereby the license issued to the petitioner under the Public Distribution System has been cancelled without affording any opportunity of hearing in gross violation of Principles of Natural Justice which is wholly illegal and without jurisdiction.

(ii) For issuance of writ in the nature of mandamus directing the respondents to restore the license granted to



the petitioner under the Public Distribution System and resumes to supply of food grains with immediate effect.

(iii) For issuance of writ in the nature of declaration holding that the order passed by the S.D.O, Jhanjharpur is arbitrary and bad in law as no enquiry was conducted nor any enquiry report was prepared nor served upon the petitioner and without granting any opportunity of rebuttal the impugned action has been taken cancelling the PDS license of the petitioner as the same has been passed without any basis and the impugned action is wholly without jurisdiction and has been passed in gross violation of Principles of Natural Justice.

(iv) To any other relief/s for which the petitioner is found entitled to in the facts and circumstances of the present case.”

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 para 11 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.

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 impugned order dated 02.02.2019 (Annexure-4) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Jhanjharpur, District Madhubani 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. Licence of 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)

BT/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.06.2019
Transmission Date	N.A.

