

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5471 of 2019

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Kishun Dev Yadav, aged 45 years (Male) S/o Bhagwan Dat Yadav Resident of
Village - Kamrail, Panchayat- Marauna, P.S.- Marauna, Block- Marauna, P.S.-
Marauna, District- Supaul

... .. 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 Supaul
3. The Sub-Divisional Officer Nirmali
4. The Block Supply Officer Marauna

... .. 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 : 10-06-2019

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 :

*“(i) For issuance of writ in the nature of certiorari
for quashing of order dated 29.12.2018 issued by
vide Memo No. 1653-2 dated 29.12.2018 passed by
the Sub Divisional Officer, Nirmali whereby the
license issued to the petitioner under Public
Distribution System has been cancelled without
affording any opportunity of being heard 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 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 S.D.O., Nirmali 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 the Principles of natural justice.

(v) To any other relief/s to 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 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.

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 contained in Memo No. 1653-2 dated 29.12.2018 (Annexure-4) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Nirmali District Supaul 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.

