

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5061 of 2019

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Dhirendra Mandal, Aged 40 years (male), Son of Chuman Mandal, Resident of Village- Sukhanagar Ward No. 2, Panchayat- Sukhanagar, Block- Pratapganj, P.S.- Paratapganj, 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, Birpur.
4. The Block Supply Officer, Birpur.

... .. 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 06.02.2019 passed by the Sub Divisional Officer, Birpur, Supaul issued vide Memo No. 234-2 dated 08.02.2019 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 the order passed by the respondent S.D.O, Birpur is arbitrary and bad in the eye of law as no enquiry was conducted nor any report was prepared rather served upon the petitioner and without affording 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 same is wholly without jurisdiction and has been passed in gross violation of Principles of Natural Justice.

(iv) For 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 06.02.2019 (Annexure-6) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Birpur, 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.

