

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.15721 of 2018**

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Ugra Narayan Jha Son of Late Kedar Jha, resident of Village and P.O.-  
Maladh, Block and P.S.- Kishanpur, District- Supaul.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Old Secretariat, Patna.
2. The Collector-cum- District Magistrate, Supaul, District Supaul.
3. The District Supply Officer, Supaul, District Supaul.
4. The Sub- Divisional Officer-cum- Licensing Authority, Supaul, District- Supaul.
5. The Block Supply Officer, Kishanpur, District- Supaul.

... .. Respondents

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**Appearance :**

For the Petitioner/s : Mr.Alok Kumar Agrawal, Advocate  
For the Respondent/s : Mr.Upendra Pratap Singh, AC to SC-4

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

4      05-09-2019                      Heard learned counsel for the petitioner and learned  
counsel representing the State.

A counter affidavit has been filed on behalf of the  
respondent nos. 2 to 5. On the last date after hearing learned  
counsel for the parties this Court had passed the following  
order:-

“Learned counsel for the respondent-State is  
granted two weeks time to file a counter  
affidavit. This court is granting further  
indulgence to the respondent-State finding that it  
seems to be a hard case for the petitioner who  
had earlier filed a statutory appeal against the  
impugned order in the year 2016 itself, but, then,  
for two years since no hearing was taking place  
in the appeal before the Collector, Supaul, he  
chose to move this court under Article 226 of the



Constitution and has withdrawn the statutory appeal.

Learned counsel for the petitioner has submitted that for purpose of setting aside of the impugned order only a short point, which he has been canvassing, would be sufficient, as according to him, when the petitioner submitted his show cause the same was sent to the office of the Block Supply Officer, Kishanpur for his comments, the Block Supply Officer, Kishanpur submitted his report vide letter no. 112 dated 26.07.2016, copy of which was never supplied to the petitioner but the same has been made basis for passing of the impugned order. Learned counsel submits that if this is the position then the Licensing Authority has acted on the basis of the material which the petitioner no opportunity to controvert.

Learned counsel for the State submits that he would seek specific instruction on the aforesaid issue and will place the same in the counter affidavit.

List this case on 4<sup>th</sup> September, 2019 under the same heading.”

Today, learned counsel for the State has fairly accepted at the bar that the counter affidavit filed on behalf of the answering respondents does not answer the issue specifically and, therefore, the matter may be decided on the contention of learned counsel for the petitioner that the copy of the enquiry report was not served upon him. It is submitted that liberty be granted to the Sub-Divisional to consider the matter afresh after giving the copies of report to the petitioner and opportunity to defend himself.

In the aforesaid view of the matter, this Court deems it



just and proper to set aside the impugned order as contained in Memo No. 178 आठ dated 06.08.2016 issued by Sub-Divisional Officer, Supaul, the impugned order is accordingly set aside, the matter is remitted to the Sub-Divisional Officer, Supaul for a fresh consideration and passing of a reasoned order within a period of 90 days from the date of receipt/production of a copy of this order.

Before proceeding further the copy of the enquiry report shall be given to the petitioner and the petitioner will have an opportunity to submit his reply/objection, if any, within the time granted by the Sub-Divisional Officer. A reasoned order shall be communicated to the petitioner immediately thereafter.

Since, the impugned order was passed in the year 2016 and thereafter vacancies have been notified it is not known whether the Public Distribution Shop which was earlier allotted to the petitioner is still lying vacant. If the shop is still vacant and has not been allotted to anybody else, the license and supply of the petitioner shall be restored immediately subject to final decision.

Writ application stands disposed of accordingly.

vats/ved

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**(Rajeev Ranjan Prasad, J)**

