

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18931 of 2018

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Ganga Ram, son of Yugeshwar Ram, resident of Village- Rupauli, Panchayat
Karhara, P.S. 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 A.D.M. Jhanjharpur.
5. 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 : 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 the order dated
24.3.2017 passed by the District Magistrate-cum-
Collector Madhubani in supply Appeal No. 76 of
2011-12 whereby the appeal preferred by the
petitioner against the order of cancellation of his
PDS license has been rejected outrightly merely
on conjecture and surmises for the reason that
without considering the plea raised by the
petitioner and also no reasons for dissatisfaction
from the enquiry report filed by the Block Supply*



Officer, Madhepur has been assigned.

(ii) For issuance of writ in the nature of certiorari for quashing of the order dated 22.11.2011 issued vide memo no. 509 issued by the Sub Divisional Officer Jhanjharur whereby the PDS license issued to the petitioner under public Distribution System has been cancelled that too without considering the show cause reply filed by the petitioner and also without affording any opportunity of being heard in complete violation of principles of natural justice and also no enquiry report prepared muchless served upon the petitioner prepared by the senior deputy D.M. Jhanjharpur.

(iii) For issuance of writ in the nature of declaration holding that the entire action of the respondents in cancelling the PDS licence of the petitioner is arbitrary, illegal and against the Principles of natural justice therefore wholly without jurisdiction.

(iv) For issuance of writ in the nature of mandamus directing the respondents to restore the PDS license of the petitioner issued under public distribution system and start the supply of food grains thereof forthwith.

(v) For any other relief(s) for which 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 16 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. Such infirmity could not be cured in the appeal as well.

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 appellate order dated 24.03.2017 passed by the District Magistrate-cum-Collector, Madhubani in Supply Appeal No. 76 of 2011-12 (Annexure-11) and the impugned order dated 22.11.2011 (Annexure-10) are 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.

