

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22069 of 2018

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Raj Kumar Yadav Son of Bindeshwar Yadav, resident of Village- Birpur, Post-Banki, 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 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 12/02/2011 issued vide memo no. 91 dated 12/02/2011 by the Sub Divisional Officer, Jhanjharpur, whereby the License issued to the petitioner under the Public Distribution System has been cancelled without issuing the show cause notice nor any indulgence granted for rebuttal to any allegations levelled against petitioner and even without affording any opportunity of being heard is 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 resume the supply of food grains with immediate effect.

(iii) For issuance of writ in the nature of declaration holding the order passed by the respondent SDO, Jhanjharpur is arbitrary and bad in the eye of law as no enquiry report has been served on the petitioner nor any opportunity for rebuttal has been granted and on the basis of the alleged enquiry report the impugned action has been taken which is wholly without jurisdiction and has been passed in gross violation of principle of natural justice.

(iv) For any other relief/reliefs for which the petitioner is found entitled to in the acts 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 show cause notice along with enquiry report was not served upon the petitioner and he was not given any opportunity of being heard or adducing evidence in that regard. A specific stand has been taken in para 6 of the writ petition that the impugned order of cancellation of licence has been passed without serving show cause notice along with 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.



5. In the above view of the matter, this Court is satisfied that non-service of the show cause notice along with enquiry report to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 12.02.2011 issued vide memo no. 91 (Annexure-2) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Jhanjharpur District Madhubani for taking decision afresh in the matter after serving show cause notice along with enquiry report upon 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 non-service of show cause notice along with 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.

