

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7971 of 2020

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Islam Ansari Son of Late Zafar Ali, resident of Village - Rahmandih
(Ramandih), P.S. - Dhoraiya, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
3. The District Magistrate, Banka.
4. The Block Supply Officer, Dhoraiya, District-Banka.
5. The Sub-Divisional Officer, Banka, District-Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pramod Mishra, Advocate
For the Respondent/s : Mr. Arvind Ujjwal, SC 4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 18-12-2020

This matter has been taken up for hearing through video conference. Learned counsel for the petitioner undertakes that all defects pointed out by the stamp reporter shall be removed, and compliance with the conditions of the notices of this Court with regard to acceptance of e-filing shall be made, without delay immediately upon resumption of normal physical functioning of the Court, and in any event within one month thereof.

2. The present writ petition has been filed for setting aside the order contained in memo no. 16 dated 05.05.2020 (Annexure-3) passed by the Sub-Divisional Officer, Banka, District Banka by which licence of the petitioner's Fair Price shop bearing no. 79/2012 has been cancelled and monthly allotment has been stopped; and further to restore the petitioner's licence.

3. Learned counsel for the petitioner makes a short



submission to assail the impugned order on the ground a copy of the BDO's report relied upon in the impugned order was not supplied to the petitioner prior thereto. A specific stand has been taken in para 10 of the writ petition that the show cause has been called for without supply of a copy of the said report. Moreover, it is submitted that the petitioner's explanation in his show cause has not properly been considered, which is in violation of the principal of natural justice.

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-supply of the BDO's report to the petitioner which formed the basis for the impugned order of cancellation has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 05.05.2020 (Annexure-3) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Banka, District Banka for taking decision afresh in the matter after grant of a copy of the report in question in accordance with law. Licence of the petitioner shall be restored without delay until fresh orders are passed by respondent no. 5.

6. It is made clear that in case the stand of the petitioner regarding non-supply of the BDO's report 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.

8. It is also made clear that in view of the ongoing Covid-19 pandemic, any correspondence between the parties may be made through email and that the petitioner shall be at liberty to request the concerned authority for hearing through video conference. To enable the same, the petitioner shall furnish her mobile number and e-mail ID on the email address of learned



Advocate General not later than by 23.12.2020 for onward transmission to the concerned authority.

9. Office shall follow-up to ensure that all defects are removed and compliance with the notices of this Court are made by the petitioner within the stipulated time provided in para 1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	22.12.2020
Transmission Date	-

