

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7937 of 2020

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Manoj Kumar Son of Late Arjun Prasad, Resident of Village - Nemdarganj
Post Office - Nemdarganj, Police Station and Block - Akbarpur, District-
Nawadah.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The District Magistrate, Nawadah.
3. The Sub Divisional Officer-cum-Licensing Authority, Rajauli, District-Nawadah.
4. The District Co-operative Officer, Nawadah.
5. The Block Supply Officer, Akbarpur, District - Nawadah.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arun Kumar, Advocate
For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT
Date : 09-10-2020

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 quashing the order contained in memo no. 366 dated 12.06.2018 passed by the District Magistrate-cum-Licensing Authority in Case No. 385(M) of 2017 affirming the order contained in memo no. 552 dated 09.03.2017 passed by the Sub-Divisional Officer-cum-Licensing Authority, Rajauli, by which the licence of the petitioner's Fair Price shop bearing no. 425/2011 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 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 paras 8 and 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 and such infirmity could not be cured in the appeal as well. Moreover, it is submitted that the petitioner's licence could not have been cancelled merely owing to the shop having been found closed on a single day, as is well-settled. The appellate authority has also passed his order mechanically while upholding the cancellation order.

4. 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 licence of the petitioner could not have been cancelled merely for the reason that the petitioner's shop had been found closed on the day of inspection. The impugned order dated 09.03.2017 (Annexure-3) as also the appellate order dated 12.06.2018 (Annexure-4) are hereby quashed and the matter remanded to the Sub-Divisional Officer-cum-Licencing Authority, Rajauli, for taking a 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.

5. 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.

6. The writ petition stands allowed as above.

7. 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 his mobile number and e-mail ID on the email address of learned Advocate General not later than by 16.10.2020 for onward transmission to the concerned authority.

8. 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	14.10.2020
Transmission Date	-

