

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12601 of 2022

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Kanhaya Lal Das @ Kanhaiyalal Das Son of Late Tej Narayan Das @ Tej Narayan Lal Das, Resident of Village- Madhepur, Old Bus Stand, Madhepur, District- Madhubani, Pin Code- 847408.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The District Magistrate, Madhubani.
3. The Licensing Officer-cum- Sub- Divisional Officer, Jhanjharpur, Madhubani.
4. The Block Supply Officer, Madhepur, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kaushalesh Choudhary, Advocate
For the Respondent/s : Mr. U.P. Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 25-02-2023 Heard Mr. Kaushalesh Choudhary, learned counsel

 appearing on behalf of the petitioner and Mr. U.P. Singh, learned

 appearing on behalf of the State.

2. In the present writ petition, petitioner has prayed

for following relief(s):

“i. For issuance of an appropriate writ(s)/Rule(s)/Direction(s) in the nature of mandamus, commanding the concerned respondents for quashing the Appellate Order dated 20.06.2022 passed by the Collector, Madhubani, in Supply Appeal Case No. 55/2020-2021, as the said order has been passed without considering the relevant facts and circumstances of the case and even without considering Judgment and Order dated 25.11.2020, passed by this Hon’ble Court in C.W.J.C. No. 15952 of 2019.



ii. For quashing the Order dated 25.05.019 passed by the Licensing Officer-cum-Sub Divisional Officer, Jhanjharpur, Madhubani, issued vide Memo No. 157 dated 25.05.2019, as the said order has been passed without considering the petitioner's reply dated 28.11.2018 and even without providing the enquiry report dated 11.11.2018 to the petitioner, which has been prepared by the said Licensing Officer himself. Further, the said Licensing Officer himself has conducted an enquiry of the Petitioner's P.D.S. shop on 11.11.2018 and he himself passed the impugned order dated 10.12.2018 and 25.05.2019, becoming Judge of his own cause.

iii. For restoration of Petitioner's License No. 54/2007 renewed License No. 65 of 2016 with all facilities, available to the P.D.S. Shop.

iv. For grant of other relief(s) to which the petitioner may found entitled, on the facts and circumstances of the case.

3. Learned counsel appearing on behalf of the petitioner submitted that the enquiry report was not provided to the petitioner along with the show cause notice and the order was passed without considering the reply filed by the petitioner by the licensing authority, which has been affirmed by the appellate authority vide order dated 20.06.2022.

4. Learned counsel further submitted that the petitioner had submitted his explanation within 50 days and had also requested for providing enquiry report but the licensing authority without granting him any opportunity to controvert the accusations made in the enquiry report had passed the order



canceling the license of the petitioner. Learned counsel further submitted that there is gross violation of principle of natural justice and as such the order passed by the licensing authority and appellate authority are fit to be quashed.

5. Learned counsel for the State submitted that the petitioner has never asked for enquiry report and in the present writ petition also he has not made any statement to that effect that the petitioner was not granted enquiry report to controvert the same. The order passed by the licensing authority and the Collector are well considered and the same do not required to be interfered.

6. Having considered the rival submission of the parties and the materials on record it appears that the Collector, Madhubani has admitted the fact that the petitioner was present at the time of inspection but the inspection report was never demanded by the petitioner. Law is well settled that non supply of enquiry report to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. Accordingly, the orders passed by the licensing authority and the appellate authority are held to be without jurisdiction and are set aside.

7. The matter is remitted back to the Collector,



Madhubani, who will pass a reasoned order within a statutory period of 60 days from the date of production of this order.

8.With aforesaid observation/direction, the present writ petition is disposed of.

(Purnendu Singh, J)

Niraj/
Nilmani/-

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