

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 343 of 2023

For Petitioner (s)	: Mr. Somik Deb, Sr. Advocate. Mr. Koomar Chakraborty, Advocate.
For Respondent(s)	: Mr. M. Debbarma, Addl. GA.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

ORDER

11.12.2023

This is a petition under Article 226 of the Constitution of India for seeking the following reliefs:

- (i) *Issue Rule, calling upon the respondents and each one of them to show cause as to why a Writ of Certiorari and/or in the nature thereof, shall not be issued for transmitting the records lying with them for rendering substantive and conscionable justice to the petitioner and for quashing/ setting aside the impugned order of Cancellation of License dated 20.05.2023.*
- (ii) *Issue Rule calling upon the respondents and each one of them to show cause as to why a Writ of Mandamus and/or in the nature thereof shall not be issued for mandating the respondents to forthwith revoke/rescind the impugned order of Cancellation of License dated 20.05.2023 and thereby forthwith restore the License of the petitioner;*
- (iii) *Issue Rule calling upon the respondents and each one of them to show cause as to why a writ of Mandamus and/or in the nature thereof shall to be issued for restrain/prohibiting the respondents from acting in any manner, in furtherance of the impugned Order of Cancellation of License dated 20.05.2023.*
- (iv) *Call for records appertaining to this writ petition;*
- (v) *After hearing the parties be pleased to make the Rule absolute in terms of (i) to (iv) above;*
- (vi) *Any other Relief(s) as to this Hon'ble High Court may deem fit and proper.*

[2] It is the case of the petitioner that the Sub-Divisional Magistrate, Kailasahar issued a License, in favour of the father of the petitioner, namely, Late Bhupendra Bhattacharjee, for running the Fair Price Shop permitting him to purchase, sale/storage of food stuff in the name and style of Fair Price Shop No.2, Kumarghat. After the death of his father, the petitioner applied for issuance of License of the said Fair Price Shop in his name. Subsequently, the Sub-Divisional Magistrate,

Kailasahar issued a License, in favour of the petitioner. The Sub-Divisional Magistrate (Licensing Authority), Kumarghat issued a Show Cause Notice noting that certain discrepancies were found, while inspecting the said Fair Price Shop, run by the petitioner. Further, it was directed him to reply within a period of 3 days of receiving the Notice. The petitioner submitted a Representation to the Sub-Divisional Magistrate (Licensing Authority), Kumarghat, thereby denying the allegations raised against him on the ground that the petitioner, during his out-station visit for treatment purpose, the responsibility of the said Fair Price Shop was handed over to another person, and during the inspection period, he could not provide with the proper information of the balance stocks. Aggrieved thereby, the petitioner has approached this court for seeking reliefs.

[3] Heard learned counsel for the parties.

[4] It is represented by Mr. Somik Deb, learned senior counsel appearing for the petitioner that a plain reading the Representation dated 16.05.2023 would make revelation that the explanation, offered by the petitioner was a reasonable explanation, and that the petitioner has denied the charges leveled against him. In such view of the matter, it was obligatory, on the part of the Sub-Divisional Magistrate/Licensing Authority, to cause a full-fledged enquiry, thereby enabling the petitioner, to substantiate his pleas. It is further contended that the Sub-Divisional Magistrate/Licensing Authority has made allegations against the petitioner, and on the other hand, the petitioner has refuted the said allegations. Situated thus, before inflicting the major penalty of Cancellation of License, it was obligatory, on the part of the Licensing Authority, to hold an enquiry, and thereupon, permit the petitioner to adduce evidence. Since, such course of action was not adopted, and

straightaway, the major penalty of Cancellation of License was inflicted on to the petitioner. According to the counsel for the petitioner, the same is not sustainable, on account of breach of the cardinal principles of natural justice.

[5] On perusal of the record it appears to this court that the order of cancellation of license dated 20.05.2023 is not preceded by any show cause notice. The show cause notice dated 06.05.2023 which is pointed out by Mr. M. Debbarma, learned Addl. GA for the respondents does not indicate that the petitioner submitted an explanation to the said show cause notice. It also does not indicate whether the show cause was issued for cancelling or terminating the licence of the petitioner. According to the counsel for the respondents, it needs to be treated as show cause notice for cancellation of license of the petitioner. This court is not inclined to accede the contention as advanced by Mr. M. Debbarma, learned Addl.GA for the respondents. Accordingly, the said order of cancellation of license dated 20.05.2023 is set aside. In view of the setting aside order of cancellation, it is needless to observe that the license of the petitioner stands restored.

[6] Moreover, with regard to the recovery of value of 8304 kg PDS Rice, 574 kg PDS Sugar and 4 kg PDS M. Dal, the respondents are at liberty to proceed in accordance with law, if so advised.

[7] With the above observation and direction, this present writ petition stands disposed of. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

JUDGE

Dipak

DIPAK DAS
Digitally signed by
DIPAK DAS
Date: 2023.12.15
16:33:37 +05'30'