

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20272 of 2010

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M/S Sanjeet Traders, a Proprietorship Firm Having its Place of Business at Mahila College, Road, P.O., P.S., Town and Distt.Madhubani through its Proprietor, Sanjeet Kumar, S/O Shri Gokul Prasad Sah, R/O Laheriganj, Ward No.1, Madhubani, P.O., P.S., & Distt.-Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through the Agriculture Production Commissioner, Govt. of Bihar, Vikash Bhawan, Patna.
2. The Director, Agriculture, Bihar, Vikas Bhawan, Patna.
3. The Joint Director, Agriculture, Darbhanga Division, Darbhanga.
4. The District Agriculture Officer, Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi

For the Respondent/s : Mr. K.K.Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 21-04-2015

Heard the parties.

The petitioner, a proprietorship firm, has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the office order passed by the respondent District Agricultural Officer-cum- Fertiliser Licence Registering Authority, Madhubani, communicated vide Memo no. 833, Madhubani, dated 04.12.2010 (Annexure-2), whereby and whereunder wholesale licence/ certificate of registration issued in favour of the petitioner firm under the provisions of Fertiliser (Control) Order, 1985 has been cancelled.

Learned counsel appearing on behalf of the petitioner submits that the petitioner was issued certificate of registration vide Annexure-1 to carry on the wholesale business of fertiliser, which was valid till 31.03.2013. It is contended that the impugned office order dated 4.12.2010, as contained in Annexure-2, is liable to be set aside on twin grounds, firstly, the impugned order has been passed in



complete violation of the principles of natural justice and secondly, it is in teeth of the scheme and mandate of Clause-31 of The Fertiliser (Control) Order, 1985. In support of his above contention, he has drawn attention of the Court towards the averments made in paragraph-9 of the counter-affidavit filed on behalf of the respondent no.4 wherein it has been admitted that before passing the impugned order neither any show cause notice was issued to the petitioner nor was he given any opportunity of hearing.

Learned State counsel appearing on behalf of the respondents though has opposed the prayer made on behalf of the petitioner, but has fairly conceded particularly in view of the averments made in paragraph-9 of the counter-affidavit filed on behalf of the respondent no.4 that opportunity of hearing was not given to the petitioner before passing the impugned order, as contained in Annexure-2.

After having heard the parties and on consideration of the materials available on record, this Court finds that the mandates/ requirements of Clause 31 of the Fertiliser (Control) Order, 1985 for cancellation of licence/ certificate of registration of the petitioner have not been complied with by the respondent no.4 before passing the impugned office order vide Annexure-2. Furthermore, the respondent no.4 has himself admitted in the counter affidavit that before passing the impugned order neither any show cause notice was issued nor any opportunity of hearing was given to the petitioner. Hence, indisputably, there has been violation of the principles of natural justice before passing the impugned order. Therefore, the impugned order, as contained in Annexure-2 cannot be sustained in law.

For the reasons recorded above, this Court is left with no option, but to set aside and quash the impugned office order dated

04.12.2010 (Annexure-2) passed by the respondent no.4. However, this shall not preclude the competent authority from passing any fresh order in future strictly in accordance with law, if the cause of action so arises.

In the result, the writ petition stands allowed to the extent indicated above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

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