

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20588 of 2012

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Shri Nawas Paswan @ Shri Nawas Ram, son of Late Sharifa Paswan, resident of Village- Pandeydih, P.S.- Charpokhry, Sub Division- Piro, District- Bhojpur (Bihar)

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Bhojpur at Ara
2. The District Supply Officer, Bhojpur at Ara (Bihar)
3. The Sub Divisional Officer, Piro, District- Bhojpur at Ara (Bihar)
4. The Block Supply Officer, Charpokhary, Bhojpur at Ara (Bihar)

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajani Ranjan Prasad Singh, Adv.

For the Respondents : Mr. Raisul Haque, SC-10

Mr. Binay Kumar, AC to SC-10

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 04-10-2016

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for setting aside the order dated 20.09.2012 passed by the District Magistrate, Bhojpur at Ara in Revisional Appeal No. 11 of 2010-11.

3. Learned counsel for the petitioner submits that the order passed by the Sub-Divisional Officer, Piro on 24.09.2010 (Annexure-3) cancelling the PDS license of the petitioner, and so also the revisional order of the District Magistrate, Bhojpur at Ara in Revenue Appeal No. 11/2010-11, have been passed in violation of natural justice and without considering the representation dated 23.08.2010 (Annexure-2) filed by the petitioner before the Sub-

Divisional Officer, Piro relying on the signature of about 100 persons in favour of the petitioner to the effect that they had no complaint against him with respect to the allegations of the Sub-Divisional Officer, Piro.

4. Learned counsel for the respondents submits with reference to para-8 to the counter affidavit that the orders of the authorities do not suffer from any infirmity as show cause notices were duly issued to the petitioner prior to passing of the order but the petitioner did not respond to the same properly.

5. Having heard the parties and on a careful consideration of the materials on record, this Court finds that the petitioner has sought to rely emphatically on his representation filed on 23.08.2010 containing the endorsement of a number of persons in the petitioner's favour. Learned counsel for the respondents has not been able to point out from the orders of the authorities that such material has been considered before orders being passed. Such orders are sought to be justified with the statement contained in para-9 of the counter affidavit to the effect that though the petitioner had filed his show cause reply but he did not produce all the required documents. It is well settled that the validity of the orders have to be tested on their own merits and on the basis of the reasons contained therein which cannot be improved by subsequent affidavits. Learned counsel for the respondents has not been able to show that the material relied upon by the petitioner was considered by either of the authorities before

passing the impugned orders.

6. In the above view of the matter, the impugned order dated 20.09.2012 passed by the District Magistrate, Bhojpur at Ara in Revisional Appeal No. 11/2010-11 is hereby set aside and the matter is remanded for passing orders afresh after taking into consideration the representation of the petitioner (Annexure-2) and after grant of reasonable opportunity of being heard, and dispose of the matter on its own merits by a speaking order in accordance with law.

7. The writ petition stands allowed to the above extent.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
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