

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.375 of 2017

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Ram Naresh Paswan, Son of Late Hari Paswan, R/V- Gewali, P.S. Roh, District-Nawada.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary Food and Consumer Protection Department, Bihar, Patna.
3. The Commissioner, Magadh Range, Gaya.
4. The District Magistrate, Nawada.
5. The Sub -Divisional Officer, Rajauli (Nawada).
6. The Block Supply Officer, Roh (Nawada).
7. The Officer in Charge Police Station, Roh.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sinha, Adv.

For the Respondent/s : Mr. Alok Ranjan, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 23-05-2017

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

In the present case, the petitioner is challenging the order dated 18.8.2016 passed by the Commissioner, Magadh Range, Gaya in Supply Revision Case No. 43 of 2016 affirming the order dated 29.2.2016 passed by the appellate authority, the District Magistrate, Nawada in Appeal Case No. 176/174(M)/2013 affirming the order of the S.D.O. Rajauli (Nawada) contained in Memo No. 595 dated 5.10.2012.

From the record, it appears that an inspection was made by the Block Supply Officer, Nawada on 25.9.2012 wherein the shop of the petitioner was found closed, given a report, vide letter no.



203 dated 5.10.2012 from where it also appears that during inspection, the beneficiaries of Antyodaya and BPL Scheme have made an allegation that there was no distribution of food grains for six months and kerosene oil for three months, as the coupons were found with the beneficiaries, whereafter, the petitioner was asked to remain present along with stock register, distribution register and cash memo on 10.9.2012 but, on that day, the petitioner did not attend to the office of Sub-Divisional Officer, whereafter, again the Memo No. 4403 dated 15.9.2012 was served to file explanation within 48 hours but, the explanation was filed on 28.9.2012 and also was ready with the aforesaid records. In the explanation, it has been mentioned that on 10.9.2012, on account of illness, he could not attend the proceeding and attached the prescription showing his treatment.

Learned counsel for the petitioner submits that the memo no. 595 dated 5.10.2012 itself indicates that the Block Supply Officer has conducted the Janata Darbar where he has received complaint about misdemeanour in running PDS shop and, vide memo no. 826 dated 13.9.2012, has given information about the complaint received from Birendra Singh, the petitioner was asked to bring the record on 10.9.2012. It has been submitted by the learned counsel for the petitioner that the report has been received on 13.9.2012 about misdemeanour of the petitioner in running the PDS shop, how there could be issuance for production of the records prior to receipt of the



report. It also appears that the Block Supply Officer has given a report vide Memo No 203 dated 5.10.2012, on the same day, the order of cancellation has been passed by the S.D.O., the Licensing Authority. All these events itself indicates that the procedure which has been adopted by the S.D.O. is not proper.

Admittedly the S.D.O. has not supplied the enquiry report to the petitioner in which the allegation of closure of the shop as well as allegation was made that the petitioner is not distributing the food grains for last six months and Kerosene Oil for last three months and, without giving proper opportunity to give an explanation, passed the order. The appellate authority also has not gone into this aspect of the matter, merely has reiterated the statement recorded by the S.D.O. and he has not also taken care to see as to whether the proper procedure was followed while passing the order against the petitioner. The revisional authority has also committed an error even on record wherein it has been said that the petitioner has not produced the demanded records before the S.D.O. whereas the fact is that on the subsequent date, the petitioner has produced the record for verification.

As the proper procedure has not been followed, this Court is not giving any final opinion on the merit of the case and the orders passed by the S.D.O. contained in Memo No. 595 dated 5.10.2012, the order passé by the Appellate Authority i.e. the



Collector, Nawada dated 29.2.2016 and the order passed by the Commissioner, Magadh Pramandal, Gaya dated 18.8.2016 in Supply Revision No. 43 of 2016 are hereby quashed and the matter is remanded back before the Licensing Authority, the S.D.O., Rajauli (Nawada) who will be obliged to serve a copy of the enquiry report upon the petitioner and the petitioner is given liberty, if so advised, he may file supplementary show-cause. If the petitioner files a supplementary show-cause, the S.D.O., Rajauli (Nawada) will examine the case after giving proper hearing to the petitioner and will pass a reasoned order in accordance with law within a period of three months from the date of receipt/production of a copy of this order. It is also made clear that the petitioner must remain present either through his agent, advocate or in person on the date fixed by the S.D.O., Rajauli (Nawada), in failure, the S.D.O., Rajauli will be at liberty to take decision ex-parte.

In the result, the present writ application stands allowed to the aforementioned extent.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.05.2017
Transmission Date	NA

