

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21081 of 2014

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Horil Manjhi S/o Late Prabhu Manjhi, resident of Village-Baheradih, P.O.-
Itawan, P.S.-Mohanpur, District-Gaya.

.... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary Bihar, Patna.
2. The District Magistrate, Gaya.
3. The District Supply Officer, Gaya.
4. The Sub-Divisional Officer Sherghati, District-Gaya.
5. The Block Supply Officer, Mohanpur, District-Gaya.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Sudama Singh, Advocate
Mr. Surendra Kumar Mishra
Mr. Rajani Kant Singh
For the Respondent/s : Mr. Harish Kumar, G.P.-8

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

2 17-04-2017 Heard learned counsel appearing on behalf of the

petitioner and learned counsel appearing on behalf of the State.

The petitioner is aggrieved by the order dated
30.4.2012 filed by respondent no. 4 in Supply Case No. 16 of
2011 (Annexure-3) whereby and whereunder the respondent no. 4
has been pleased to cancel the License of the petitioner bearing
No. 320 of 2007 of the petitioner which was granted to him for
running a public distribution shop.

Learned counsel for the petitioner has assailed the
aforementioned order on the ground that it is illegal and arbitrary



inasmuch as the license of the petitioner for running a public distribution system, was cancelled without considering the show cause filed by the petitioner. It is further submitted that the said order cancelling his license was against the principle of natural justice as the enquiry report which was the basis in his case was never communicated to him. He further submits that in view of the fact that the enquiry report was never communicated to him, the authorities were wholly unjustified in cancelling the license of the petitioner and the order stands vitiated as being against the principles of **audi alteram partem**. Learned counsel for the petitioner, has further drawn my attention to the impugned order wherein the petitioner's license has been cancelled. He thus prays for appropriate writ quashing the said order dated 30.4.2012.

A counter affidavit has been filed by the State authorities in which they have submitted that the order cancelling the license of the petitioner is wholly legal and justified in much as the petitioner was granted a license which he failed to run under the Rules. It is further submitted that the petitioner was asked to appear before the authority and it is on the basis of his show cause that his case was considered. However, the petitioner after filing a sketchy show cause failed to appear before the authorities which led to the passing of the impugned order. He further submits that



the plea of submission of enquiry report or a demand for the same has never been raised by the authorities. Therefore, the authorities after due consideration of all facts and circumstances have cancelled the license of the petitioner. Thus the writ petition is fit to be dismissed. He further submits that the applicants have come to this Court after a lapse of two years and, therefore, this Court may not like to interfere as the petitioners action in seeking remedy under Article 226 suffers from delay and laches.

Having heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State and after considering all facts and circumstances, this Court is of the opinion that undoubtedly the petitioner's representation has not been considered in its true perspective. The reason assigned for cancellation of order also stands vitiated on account of the fact that the petitioner had categorically asserted that he was unable to appear before the authority concerned on account of minor reasons. Furthermore, the report on the basis of which the impugned order has been passed has never been communicated to the petitioner as is evident from the records of the case.

In view of the facts and circumstances and for the reasons stated above, this Court is of the view that the order impugned stands vitiated. Thus order dated 30.4.2012 in Supply



Case No. 16 of 2011 (Annexure-3), is set aside. However, the matter is remitted back to the authorities i.e. Sub Divisional Officer, Sherghati at Gaya for re-consideration of the petitioners case in accordance with law after serving him a copy of the enquiry report within a period of four weeks from the date of receipt / production of a copy of this order. The petitioner after receipt of such copy shall file further show cause and the authority concerned shall consider the same in accordance with law within a period of three months thereafter.

With the aforementioned observations and directions, the writ petition stands disposed of.

(Anjana Mishra, J)

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