

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3615 of 2014

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Ram Narayan Das Son Of Late Bhola Das Resident Of Village- Bazar Tali,
Gram Panchayat Kalpa, P.O.- Kalpa, P.S.- Block Jehanabad, District-
Jehanabad

.... Petitioner

Versus

1. The State Of Bihar through the Principal Secretary Food and Civil Supply, Govt. Of Bihar.
2. The District Magistrate, Jehanabad
3. The Sub-Divisional Officer-Cum-Licensing Authority, Jehanabad, District- Jehanabad
4. The District Supply Officer, Jehanabad
5. The Block Supply Officer Jehanabad, District- Jehanabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar

For the Respondent/s : Mr. Niraj Kumar, A.C. to G.A.-10

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

7 22-06-2017 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

2. The petitioner seeks to challenge the order dated 06.01.2011 contained in Memo No. 49 passed under the signature of the S.D.O., Jehanabad whereby and whereunder the Public Distribution System licence of the petitioner has been cancelled without affording him the opportunity to defend himself. He further seeks a writ in the nature of certiorari commanding the Respondents to quash the order dated 06.11.2013 passed in Appeal Case No. 3/D.M./2011 by the Collector, Jehanabad whereby and whereunder the Memo No. 49 dated 06.01.2011 passed by the S.D.O., Jehanabad has been confirmed.



3. Learned counsel for the petitioner submits that the petitioner being a Public Distribution System licence holder bearing Licence No. 02 of 2009 had been running his shop to the satisfaction of all the beneficiaries and without any complaint from any quarter. All of a sudden, when the petitioner was ill and had come to Patna for treatment, the Block Supply Officer, Jehanabad, wrote to the Sub-divisional Officer, Jehanabad, vide letter No. 138 dated 20.11.2010 requesting him to grant permission for attachment of the shop in question as the petitioner had been away on the ground of illness. It is submitted that an inspection was conducted on 23.12.2010 by the Assistant District Supply Officer, Jehanabad and show-cause was also issued to him but the same was never served as the petitioner was away and obtaining treatment at Patna. This fact finds recorded in the order of the District Magistrate, Jehanabad (Annexure-6).

4. Learned counsel for the petitioner further submits that a unilateral decision was taken that the petitioner had not been distributing food-grains for the month of August, 2010 to October, 2010 and also had not been distributing kerosene oil for the month of September, 2010 to October, 2010. He submits that though the concerned respondent was aware of the petitioner's illness yet vide Memo No. 49 dated 06.09.2011, an order of cancellation was



passed against the petitioner without affording him adequate opportunity to defend himself. He further submits that no copy of enquiry report was ever served on him which goes to the root of the matter and vitiates the entire order.

5. Learned counsel for the petitioner further submits that in the appeal filed before the learned District Magistrate, Jehanabad against the order dated 06.01.2011 which was accompanied by the prescription and medical report of the petitioner and also the application for leave duly forwarded by the Block Supply Officer, Jehanabad and which also contained a letter from Block Supply Officer, Jehanabad bearing Letter No. 375 dated 15.04.2013, the petitioner clearly stated that he had been suffering from serious illness, therefore, his case may be considered sympathetically. However, all such grounds of defence and the case of the petitioner regarding non-supply of enquiry report and copy with the complaint petition came to be ignored by the Collector who has now passed the impugned order contained in Annexure-6. Accordingly, the petitioner prays that the aforementioned orders may be set at naught and the licence of the petitioner be renewed.

6. Learned counsel for the State, however, submits that in the counter affidavit filed by the officials respondents, it has been



stated that the petitioner does not deserve any relief from this Court as he had been committing black-marketing of food-grains and kerosene oil as is alleged in the enquiry report of the A.D.S.O. It has been submitted that though no enquiry report was served on him yet the petitioner has clearly been found to be guilty of the charges as alleged against him, therefore, the writ Court may not like to interfere in such matters where there has been violation of the statutory rules which has led to the cancellation of the licence of the petitioner.

7. Having heard learned counsel for the petitioner and learned counsel appearing on behalf of the State, it appears that the entire proceeding was conducted behind back of the petitioner and the impugned order passed by the learned S.D.O. was wholly behind his back as the petitioner was admittedly away from Jehanabad and was availing treatment at Patna. There was sufficient proof before concerned functionaries to address itself on the said issue of illness of the petitioner before passing any such order cancelling his licence. The order impugned also stands vitiated since the notices were never served on the petitioner and the text of the complaint registered against him was not placed before the petitioner so as to enable him to file an effective reply to the charges as contained in the complaint petition. There is



clear violation of the Principles of Natural Justice for which this Court would be persuaded to interfere under the extraordinary jurisdiction of this Court.

8. Having noticed the discrepancies in the impugned orders passed by the learned Sub-divisional Officer, Jehanabad, as also the District Magistrate, Jehanabad in his appeal, this Court is, thus, persuaded to quash Annexure- 4 as contained in Memo No. 49 dated 06.01.2011 and Annexure-6 dated 06.11.2013. The impugned orders as contained in the said annexures are quashed.

9. It is thus, directed that since the orders cancelling the his licence are no more in existence, it would follow as a natural corollary that the petitioner's licence be restored and the supplies be restored to his shop and he may be permitted to operate as Public Distribution System dealership in accordance with law.

10. The writ application stands allowed.

11. However, there shall be no order as to costs.

(Anjana Mishra, J)

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