

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7226 of 2017

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Ramashankar Singh, Son of Ram Balam Singh, Resident of Village- Gonahi,
P.S.- Patahi, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food & Civil Supply Department,
Bihar, Patna
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The District Magistrate, East Champaran, Motihari.
4. The Sub-Divisional Officer, Pakadi Dayal, District- East Champaran.
- 5.

... .. Respondent/s

from any quarter, however, suddenly a show cause notice dated 08.11.2014 was issued to the petitioner stating therein that an inspection was held at the shop of the petitioner on 05.11.2014 by the concerned official and shortage in stock was found as well as various discrepancies were found. The petitioner is stated to have submitted his reply to the said show cause notice stating therein that the inspection was made in the late evening in absence of the petitioner, hence the stock register and other documents could not be produced as also correct position could not be explained to the inspecting officials, however, the fact is that no discrepancy as alleged was there and the fact was that on 09.11.2014, a dacoity had taken place in the shop of the petitioner and cash, various articles and the documents had been looted by the said dacoits for which a FIR bearing Patahi P.S. Case No. 119 of 2014 had also been lodged.

It appears that the licensing authority i.e. the Sub-Divisional Officer, Pakadi Dayal by his order dated 17.11.2014, after considering the reply filed by the petitioner, had cancelled the license of the petitioner after giving his point wise opinion with regard to the

17.01.2017 passed by the District Magistrate, East Champaran, Motihari. It appears that the petitioner had then preferred a revision petition bearing Revision Case No. 32 of 2017 before the Court of Collector, Tirhut Division, Muzaffarpur, however, the same has also been dismissed by a well reasoned and detailed order dated 21.03.2017.

The learned counsel for the petitioner has submitted that on merits the allegation levelled in the show cause notice dated 08.11.2014 is not correct. It has further been submitted that a copy of the enquiry report has also not been furnished to the petitioner herein, hence the entire proceeding is vitiated and the impugned orders are fit to be set aside.

Per contra, the learned counsel appearing for the respondents, referring to the counter affidavit filed in the present case, has submitted that a show cause notice dated 08.11.2014 was issued to the petitioner, after a joint team consisting of Sub-Divisional Supply Officer, Pakadi Dayal, D.C.L.R., Pakadi Day

Divisional Officer, Pakadi Dayal. The petitioner had then preferred an appeal but the same was also dismissed by an order dated 17.01.2017 passed by the appellate authority whereafter the petitioner had preferred a revision petition but the same was also dismissed by an order dated 21.03.2017. On merits also, the learned counsel for the respondents has submitted, by referring to paragraph no. 7 of the counter affidavit, that the petitioner has been unable to produce any evidence to falsify the allegations levelled in the show cause notice, as found by the joint inspection team, hence even on facts, the petitioner does not have any case and the petitioner has conclusively been found to have violated the terms and conditions of the license which has resulted in cancellation of his license. The learned counsel for the respondents has also supported the appellate and revisional orders passed by the District Magistrate, East Champaran at Motihari and the Commissioner, Tirhut Division, Muzaffarpur.

I have heard the learned counsel for the parties as also have perused the materials on record. At the inception, it must be stated that the disputed question of facts cannot be adjudicated in a writ petition under Article 226 of the Constitution of India, moreover, it is a settled

but not to upset pure findings of fact and the High Court in a writ jurisdiction cannot sit in appeal and re-appreciate the evidence/facts of the case. In the present case it is apparent that the petitioner has failed to bring on record any evidence to dispute the allegations levelled against him in the show cause notice dated 08.11.2014 and moreover even on facts/merit of the case, the case of the petitioner has been examined not once but thrice and that too by a well reasoned and a just order passed in appeal as well as in revision by the appropriate authorities.

In such view of the matter, this Court is left with the task of only examining as to whether there is any jurisdictional error or whether the order is without jurisdiction or has been passed in excess of its jurisdiction or the rules of procedure have been violated or there has been violation of the principles of natural justice. In this connection, the only grievance raised by the petitioner is that a copy of the enquiry report has not been supplied to him, hence the entire procedure is vitiated.

Having regard to the facts and circumstances of the case, I find that no interference is required as far as

allegation, made for the first time in the writ petition as also during the course of argument inasmuch as neither the said issue has been raised in the reply filed by the petitioner to the show cause notice dated 08.11.2014 nor the same can be culled out from the order dated 17.01.2017 and 21.03.2017 passed by the appellate authority and the revisional authority, in absence of the copies of appeal and revision having been brought on record in the present writ petition. Thus in absence of any material in favour of the petitioner to buttress the issue regarding non-supply of inquiry report to the petitioner, the said ground raised by the petitioner is not tenable, either on facts or in law, hence is rejected.

In view of the discussions made in the preceding paragraphs on facts as also in law, there is no merit in the present writ petition. Accordingly, the writ petition is dismissed, however, without any order as to costs.

(Mohit Kumar Shah, J)

S.Sb/-