

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6780 of 2017

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Sushil Kumar Paswan, S/o Late Sukkan Paswan, Resident of Village + P.O.-
Pattor, P.S.- Ashok Paper Mill (O.P. Pattor), District- Darbhanga.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. Commissioner, Darbhanga Commissionery, Darbhanga.
3. District Magistrate, Darbhanga.
4. S.D.O. Sadar, Darbhanga.
5. District Supply Officer, Hayaghat, Darbhanga.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ram Hriday Prasad, Advocate

For the Respondents : Mr. S. Raza Ahmad, AAG5

Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-01-2018

Heard learned counsel for the petitioner as well as learned
counsel for the respondents.

2. The present writ petition has been filed for quashing the order of S.D.O., Sadar, Darbhanga dated 31.10.2013 (Annexure-P-3) by which renewal of licence no. 50/07 of the petitioner under Public Distribution System was rejected and the order of D.M. Darbhanga dated 08.05.2015 (Annexure- P-5) by which appeal of the petitioner has been rejected and the order of Commissioner, Darbhanga Commissionery, Darbhanga dated 03.02.2016 (Annexure-P-7) by which the revision has been rejected.

3. Learned counsel for the petitioner submits that the impugned orders have been passed in arbitrary manner and without considering the stand of the petitioner in its right perspective. The petitioner claims to have filed his show cause reply before the Sub-



Divisional Officer, Sadar, Darbhanga (respondent no. 4) which has however, not been considered.

4. Be that as it may, learned counsel for the petitioner refers to certain guidelines of the State Government as contained in Memo No. 4036 dated 26.11.1994 (Annexure-P-9) and Memo No. 426 dated 21.05.1996 (Annexure-P-8), according to which PDS licence of the persons belonging to scheduled castes/scheduled tribes categories ought not to be suspended/cancelled except on serious charges to be enumerated in the cancellation order. It is further stated that the petitioner had already deposited the renewal fee of Rs. 400/- together with late fee of Rs. 800/- for the years 2012 to 2016 on 01.10.2013 (Annexure-P-2) but the same has not been considered by the respondent no. 4 while passing the impugned order on 30.10.2013. These aspects of the matter have also been ignored by the higher authorities in the appeal as well as in the revision.

5. Learned counsel for the respondents appears and has been heard.

6. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court finds merit in the writ petition. It is not in dispute that the petitioner had deposited the renewal fee as well as late fee, albeit belatedly, but however the same had been paid before passing of the impugned order of cancellation by the respondent no. 4, which has however not been taken note of. The guidelines contained in Memo No. 4036 dated 26.11.1994 (Annexure-P-9) and Memo No. 426 dated 21.05.1996



(Annexure-P-8) aforesaid have also not been taken note of which would have material bearing on the case of the petitioner.

7. In the above view of the matter, the impugned order of Sub-Divisional Officer, Sadar Darbhanga dated 31.10.2013 (Annexure-P-3), the appellate order of the District Magistrate, Darbhanga dated 08.05.2015 (Annexure-P-5), and the revisional order of the Commissioner, Darbhanga dated 03.02.2016 (Annexure-P-7) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Sadar, Darbhanga to pass orders afresh after grant of an opportunity of hearing to the petitioner in accordance with law.

8. It is made clear that in case PDS licence has been granted to a third party in relation to the area falling within the PDS licence of the petitioner, such third party shall also be noticed and heard prior to fresh orders being passed by the respondent no. 4. It is expected that such orders will be passed expeditiously and without unnecessary delay.

9. The writ petition stands allowed as above.

B.T/Chandran

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10.01.2018
Transmission Date	N.A.

