

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1939 of 2019

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Md. Isa aged about 79 years (male) Son of Avdul Jalim R/o Mohalla ward no
6 Mantola Bhagwatipur P.S. Pandaul District- Madhubani

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary ,Food And Consumer Protection
department,Bihar Patna
2. The collector Madhubani
3. The Sub Divisonal officer Madhubani
4. The Block supply Officer Madhubani

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.D. N. Tiwary, Advocate
For the Respondent/s : Mr. U. P. Singh, AC to SC -4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 25-02-2019 This writ application has been preferred for quashing

of the order contained in Memo No. 1124 dated 19.12.2018

passed by the Sub-Divisional Officer, Madhubani by which the

license of the Public Distribution Scheme shop of the petitioner

has been cancelled. The petitioner has also prayed for

restoration of the license of the petitioner in his favour with

other consequential benefits.

Learned counsel for the petitioner submits that earlier
the petitioner was served with a show cause notice bearing
memo no. 539 dated 23.07.2011 on certain allegations. The
petitioner filed his reply to the show cause and refuted all the
charges levelled against him stating therein that the complaint



had been filed by one Md. Islam only due to previous panchayat election enmity and the inquiry had not been made by the Block Supply Officer in presence of the petitioner. Despite that the Sub-Divisional officer passed order as contained in Memo No. 672 dated 13.08.2011 by which the license of the petitioner was cancelled, the petitioner had filed an appeal before the District Magistrate and on dismissal of the said appeal he had moved this Court in C.W.J.C. No. 8009 of 2018 challenging the order passed by the Sub-Divisional Officer as well as the District Magistrate. This Court vide order dated 11.05.2018 as contained in Annexure-5 to the writ application quashed the impugned orders on the ground of violation of principles of natural justice and remanded the matter back to the Sub-Divisional officer, Madhubani for taking a decision afresh in the matter after supplying a copy of the inquiry report to the petitioner and also after granting an opportunity of hearing in accordance with law. It was also directed that the supply of the petitioner shall be restored without delay until fresh orders are passed by respondent no. 3.

It is further submitted that the Sub-Divisional Officer, Madhubani passed an order dated 19.12.2018 (Annexure-6) without considering the direction of this Court in C.W.J.C. No.



8009 of 2018. It is submitted that the order impugned as contained in Annexure-6 to the writ application would show that while passing the impugned order the Sub-Divisional officer has relied upon the inquiry report said to have been submitted by the Block Supply Officer, Pandaul vide letter No. 170 dated 01.10.2018.

Learned counsel submits that a perusal of the impugned order would show that in the garb of deciding the issue in the light of the order of the Court in the aforesaid C.W.J.C. No. 8009 of 2018, the Sub-Divisional Officer, Madhubani has taken into account certain new facts. It is also submitted that the reply of the petitioner has been rejected without consideration and without application of judicious mind.

A supplementary affidavit has been filed on behalf of the petitioner in which he has brought on record the show cause notice as contained in memo no. 819 dated 04.08.2018 which shows that the petitioner was given an opportunity to give his explanation in the light of the inquiry report. It is the specific case of the petitioner that the impugned order has been passed on the basis of inspection reports dated 01.10.2018 and 10.10.2018 which were never supplied to the petitioner and that



the license has been cancelled on additional grounds for which no show cause notice was ever issued to the petitioner.

Learned counsel for the State is present and in the facts and circumstances of the case learned counsel for the State submits that the aforesaid view of the matter may be considered by the Sub-Divisional Officer, Madhubani.

In the given facts and circumstances of the case, this Court finds that the impugned order has been passed taking note of the inquiry reports which were not made available to the petitioner and additional ground was also taken while passing the impugned order. The impugned order as contained in Annexure-6 is, therefore, bad in law and is liable to be set aside. It is accordingly, set aside. The matter is remitted to the Sub-Divisional Officer, Madhubani to consider the whole matter afresh and after ensuring proper service of show cause notice upon the petitioner with respect to all the allegations within a period of 15 days from the date of receipt of the copy of this order, he will give an opportunity to the petitioner to submit his reply within a period of 30 days therefrom and after receipt of the reply the same will be considered and will be dealt with while passing the final order by the Sub-Divisional Officer, Madhubani (respondent no. 3).



Let the whole exercise be completed within a period of 60 days from the date of receipt/production of a copy of this order. Subject to the final decision to be taken by the Sub-Divisional Officer, Madhubani within the aforesaid period, the supply of the petitioner shall be restored.

This writ application stands disposed off.

(Rajeev Ranjan Prasad, J)

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