

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1837 of 2019

Indu Kuer @ Most. Kuer @ Endu Wife of late Omprakash Madhesia Resident of Village- Pagra, P.O. Sahdigri, Gram Panchayat Raj, Pagra, Block- Vijaipur, P.S. Vijaipur, Distt. Gopalganj.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Govt. of Bihar, Patna
2. The Principal Secretary, Department of Food and Consumer Protection, Govt. of Bihar, Patna
3. The Collector-Cum-District- Magistrate, Gopalganj. Bihar
4. The Senior Deputy Collector, Gopalganj.
5. The District Supply Officer Gopalganj.
6. The Sub Divisional Officer, Hathua, Distt. Gopalganj.
7. The Block Supply Officer, Vijaipur, District. Gopalganj.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 1853 of 2019

Ramnarayan Tiwari Son of Baldev Tiwari Resident of Village- Mathia, P.O- Sahdigri, Gram Panchayat Raj- Jagdishpur, Block- Vijaipur, P.S. Vijaipur, Distt. Gopalganj.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Govt. of Bihar, Patna
2. The Principal Secretary, Department of Food and Consumer Protection, Govt. of Bihar, Patna
3. The Collector-Cum-District Magistrate, Gopalganj.
4. The Senior Deputy Collector, Gopalganj.
5. The District Supply Officer, Gopalganj
6. The Sub-Divisional Officer, Hathua, Distt. Gopalganj.
7. The Block Supply Officer, Vijaipur, Distt. Gopalganj.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 1838 of 2019

Kanhaiya Singh Son of Faudar Singh R/o Vill- Bharpurwa, Gram Panchayat Raj, Bharpurwa, Block Vijaipur, P.S. Vijaipur, Distt. Gopalganj.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Seretary, Department of food and Consumer Protection, Govt. of Bihar, Patna
2. The Principal Secretary, Department of food and Consumer Protection, Govt. of Bihar, Patna
3. The Collector-Cum-District Magistrate, Patna
4. The Senior Deputy Collector, Gopalganj.
5. The District Supply Officer, Gopalganj.



6. The Sub-Divisional Officer, Hathua, Distt. Gopalganj.
7. The Block Supply Officer, Vijaipur, Distt. Gopalganj.

... .. Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 1837 of 2019)

For the Petitioner/s : Mr.Sanjay Kumar Pandey No.5

For the Respondent/s : Mr.Arvind Ujjwal (SC4)

(In Civil Writ Jurisdiction Case No. 1853 of 2019)

For the Petitioner/s : Mr.Sanjay Kumar Pandey No.5

For the Respondent/s : Mr.Arvind Ujjwal (SC4)

(In Civil Writ Jurisdiction Case No. 1838 of 2019)

For the Petitioner/s : Mr.Sanjay Kumar Pandey No.5

For the Respondent/s : Mr.S. Raza Ahmad (AAG5)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 20-02-2019

Heard learned counsel for the petitioners and learned counsel representing the State in all these three writ applications which have been taken together as the identical issues have been involved.

Petitioners, in these cases, have challenged order dated 25.08.2014, as contained in Annexure-7 in CWJC No. 1837/2019 and CWJC No. 1838/2019, whereas the same order is contained in Annexure-6 in CWJC No. 1853/2019.

By the impugned order, the Sub-Divisional Officer, Hathua, District – Gopalganj (Respondent no. 6) has cancelled the license of Public Distribution Shop of the petitioner(s). The petitioner(s) have also prayed for restoration of license in their favour.



It is the contention of the petitioners that all these writ applications are to be allowed for the present on the ground of violation of principles of natural justice, as it would appear from the impugned order(s) that even though the Sub-Divisional Officer, Hathua has taken note of the reply/submission of the petitioners, he has failed to consider the same and refused to accept the reply.

Learned counsel has relied upon two judgments of a learned Co-ordinate Bench of this court in CWJC No. 14211/2015 and CWJC No. 14024/2015, copies of which are available on the record. It is further submitted that similar orders have been quashed by this court in CWJC No. 1394/2019. All these cases would be covered by the reasoning and rationale provided in the said judgment.

On the other hand, learned counsel representing the State submits that while passing the order dated 25.01.2019 in CWJC No. 1394/2019, a plea on behalf of the State that the writ application suffers from delay and laches was considered by this court but then a view was taken that because two other writ applications mentioned above were pending before this court and came to be decided only on 18.08.2018, the delay and laches on the part of the petitioners are not such that it would debar them



from getting the fruits of the said judgment. On facts, no difference could be pointed out on behalf of the State.

Having heard learned counsel for the parties and on perusal of the records, this court finds that the impugned order passed by the Sub-Divisional Officer, Hathua, District – Gopalganj (Respondent no. 6) suffers from vice of non-consideration of the materials available on the record. The Sub-Divisional Officer, Hathua seems to have taken note of the contention of the petitioners but then he has not considered those submissions.

In the result, the impugned order(s), in the respective writ applications, is quashed. The matter is remitted to the Sub-Divisional Officer, Hathua, District – Gopalganj (Respondent No. 6) for a fresh consideration and to pass a speaking order though giving an opportunity of hearing to the petitioners. The whole exercise shall be completed by Sub-Divisional Officer, Hathua, District – Gopalganj (Respondent No. 6) within a period of three months from the date of receipt/production of a copy of this order.

In case, the Sub-Divisional Officer, Hathua, District – Gopalganj (Respondent No. 6) is satisfied with the reply of the petitioners, the consequential benefits shall also be granted to the petitioners.



These Writ Applications are thus disposed of in terms stated hereinabove.

At this stage, learned counsel for the State has raised an apprehension that during all these period a third party right might have been created. This court has, on perusal of the impugned order, not found any such consideration by respondent no. 6. If that be the position, the person whosoever likely to be effected by the order of the Sub-Divisional Officer, Hathua, District – Gopalganj, will be required to be heard.

(Rajeev Ranjan Prasad, J)

Rajeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	25..02.2019
Transmission Date	

