

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1647 of 2019

Sikandar Prasad Gupta Gender – Male, aged about 45 years, son of Laljeet Saw, Resident of Village- Amhara, P.S. and District Lakhisarai.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Commissioner, Munger Division, Munger.
3. The Collector, Lakhisarai, District- Lakhisarai. Lakhisarai.
4. The Sub-Divisional Officer, Lakhisarai, District- Lakhisarai Lakhisarai.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Rajeev Kumar Labh
For the Respondent/s : Mr.Arvind Ujjwal (SC4)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 07-02-2019 Heard learned counsel for the petitioner and learned counsel representing the State.

Petitioner, in the present case is aggrieved by the order dated 30.11.2018 passed by the Commissioner, Munger Division, Munger, in Supply Revision Case No. 74/2017, as contained Annexure-5 to the writ application, Memo No. 528 dated 16.06.2017 passed by the Collector, Lakhisarai in Supply Case No. 96/2016-17 by which the Collector being the appellate authority has refused to interfere with the order vide Memo No. 09 dated 15.09.2016 passed by the Sub-Divisional Officer, Lakhisarai cancelling the license of the petitioner bearing No. 12/1991. Order of Sub-Divisional Officer, Lakhisarai is Annexure-1 to the present writ application.

In the present writ application, learned counsel for the



petitioner has raised a short point. Learned counsel submits that it will appear from Annexure-2 i.e. show cause notice issued to the petitioner, but along with show cause notice neither the copy of complaint nor the so-called enquiry report could be made available to the petitioner. Learned counsel further submits that this question was specifically raised before the appellate authority in paragraph-3 of the memo of appeal. A copy of which has been produced before this court in course of hearing.

Learned counsel for the petitioner further submits that he had agitated this matter before the Revisional Authority i.e. the Revisional Manager, Munger, but the same has not been considered and the revision petition, as contained in Annexure-5, preferred by the petitioner has been dismissed.

Learned counsel for the State is present and in the nature of the grounds raised on behalf of the petitioner, learned counsel for the State submits that in the said circumstances the Collector – cum – District Magistrate, Lakhisarai may be directed to take a fresh decision on the appeal of the petitioner.

Having heard learned counsel for the parties, this court finds that the petitioner has raised a specific ground in his memo of appeal, a copy of which has been produced before this court. In paragraph-3 of the memo of appeal the following



grounds have been raised:

“3. That all of sudden a show cause notice is served to the appellant by Memo No. 643 dated 26.08.16 without giving names of consumers as well as without attaching any copy of enquiry report ordering to deposit of six months stock register, sale register etc. and the appellant submitted his show cause without desired documents.”

It is apparent from the impugned order as contained in Annexure-4 & 5 to the writ application that this specific ground raised by the petitioner has not been considered either by the Revisional Authority or the Appellate Authority.

This being the reason, this court would set aside the impugned orders as contained in Annexures-4 & 5 respectively. Those are, accordingly, set aside.

The matter is remitted to the Collector – cum District Magistrate, Lakhisarai to consider the appeal of the petitioner afresh and take an appropriate decision thereon within a period of 60 days from the date of receipt/production of a copy of this order.

It goes without saying that on perusal of the records, if the District Magistrate finds that neither the copy of the complaint nor the copy of the enquiry report has been made



available to the petitioner, he will give a copy of the same to the petitioner and an opportunity to controvert those documents and thereupon only the appeal shall be decided by a reasoned order.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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