

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1394 of 2019

Phulmati Devi, wife of Keshaw Patel @ Keshav Dev Prasad, Resident of Village- Singh Pur, P.O.- Sahdigari, Gram Panchayat Raj- Pagara, Block- Vijaipur, P.S.- Vijaipur, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State Of Bihar through The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Government 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, District Gopalganj.
7. The Block Supply Officer, Vijaipur, District Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Pandey No.5, Adv.
For the Respondent/s : Mr. Alok Ranjan, AC to AAG-5

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 25-01-2019 Heard learned counsel for the petitioner and learned counsel representing the State.

The petitioner, in the present case, is challenging the order vide memo no.1588/C dated 25.08.2014, as contained in Annexure-7 to the writ application, by which the Sub-Divisional Officer, Hathua (respondent no.6) has cancelled the Public Distribution Shop Licence of the petitioner. The petitioner has also prayed for restoration of the Licence with immediate effect.

Learned counsel for the petitioner has assailed the impugned order, as contained in Annexure-7, on the ground of violation of principles of natural justice. It is submitted that the



impugned order is perverted inasmuch as it would appear that after taking note of the replies/submissions of the petitioner to the show cause notice, the licensing authority has failed to consider the same and refused to accept the reply. Learned counsel submits that a perusal of the impugned order would show that it has been passed without application of a judicious mind. He has also relied upon two judgments of a learned coordinate Bench of this Court in CWJC No.14211 of 2015 and 14024 of 2015, as contained in Annexures-8 and 9 respectively. The submission is that those writ applications were allowed in similar conditions. Learned counsel submits that the petitioner deserves the same treatment.

On the other hand, learned counsel representing the State submits that the writ applications in the case of the petitioners, who got the benefit of the order of this Court, were filed in the year 2015, but the petitioner has moved this Court at this stage, therefore the writ application is fit to be dismissed on the ground of delay and laches alone.

Having heard learned counsel for the parties and on perusal of the records, this Court finds that the petitioners in the aforesaid two writ applications had moved this Court in the year 2015 but their writ applications remained pending till those



were disposed off on 18.08.2018. The petitioner has no doubt moved this Court recently, but in the opinion of this Court, the principles governing the writ applications and rejection thereof on the ground of delay and laches essentially lays down a test wherein a question arises as to whether the delay are such that it would make the petitioner disentitled for the reliefs prayed for in the writ application.

In the opinion of this Court, in the nature of the order passed by the Sub-Divisional Officer, which is totally without consideration and only five months back other writ application came to be disposed off vide Annexure 8 and 9 respectively the delay cannot be taken as a legal and valid ground to deprive the present petitioner from getting consideration of his case in like manner as have been provided by this Court to the other two writ applicants recently on 18.08.2018. This Court is, thus, inclined to reject the ground of delay and laches.

On perusal of the impugned order, as contained in Annexure-7, this Court is satisfied that even though the Sub-Divisional Officer has taken note of the contentions of the petitioner as disclosed in his reply to the show cause notice, he has not considered those replies and as such this Court is of the considered opinion that the impugned order is liable to be set



aside.

In result, the impugned order, as contained in Annexure-7 is set aside. The matter is remitted to the Sub-Divisional Officer, Hathua (respondent no.6) for fresh consideration and to pass a speaking order after giving an opportunity of hearing to the petitioner. Let the whole exercise be completed within a period of three months from the date of receipt/production of a copy of this order.

In case, the licensing authority is satisfied with the reply of the petitioner, the consequential benefits shall also be granted to the petitioner.

(Rajeev Ranjan Prasad, J)

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