

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3092 of 2019

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Krishna Prasad, (Male) aged about 51 years, Son of Nago Yadav Resident of Village- Bataspur, Village- Panchayat-Kujapi, Police Station- Chandauti, District- Gaya.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary Department of Food and Consumers Protection, Government of Bihar, Patna
2. The District Magistrate, Gaya
3. The Sub-Divisional Officer, Sadar Gaya.
4. The Block Supply Officer, Town Block, Distt. Gaya.

... .. Respondents

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Appearance :

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

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 25-06-2019 Heard learned counsel for the petitioner and learned counsel representing the State.

Petitioner, in the present case, is seeking a writ of certiorari to quash and cancel the order dated 18.12.2018 contained in Memo No. 1728 issued under the signature of Sub-Divisional Officer, Sadar Gaya by which he has cancelled the license of the petitioner of the Public Distribution System Shop.

It is the case of the petitioner that the impugned order as contained in Annexure '3' to the Writ Application has been passed by the Sub-Divisional Officer, Sadar Gaya at the instance of and under the direction of the District Magistrate, Gaya.

In this regard, he has taken this court through letter



No. 5510 dated 15.07.2018 issued by the District Magistrate, Gaya directing the Sub-Divisional Officer, Sadar Gaya to take necessary action against the Public Distribution Shop dealer.

Learned counsel submits that the District Magistrate, Gaya once directed the Sub-Divisional Officer to take action against the dealers, the Sub-Divisional Officer did not exercise his independent power as a statutory authority and acted in haste in passing the impugned order.

It is submitted that only a formality of asking the show cause was done. The show cause submitted by the petitioner was declared unsatisfactory even without going into the averments made therein. He has referred the impugned order where after recording the allegations made against the petitioner, the Sub-Divisional Officer has directly recorded that the explanation submitted by the petitioner was not found satisfactory as he had not produced certain registers in proof thereof.

Learned counsel submits that after submission of the explanation, at no point of time any information was given to the petitioner to make available the documents, if any, for which the Sub-Divisional Officer was looking to. He has placed before this court a copy of the order dated 27.02.2019 passed in



CWJC No. 1955/2019 and submits that in almost identical circumstance this court had allowed the writ application and remitted the matter to the Sub-Divisional Officer to give a fresh consideration.

Learned counsel for the State is present, he has though opposed the writ application but has submitted that the writ application may be disposed of as in similar matter earlier this court has passed the order dated 27.02.2019 on which reliance has been placed on behalf of the petitioner.

Having heard learned counsel for the parties and on perusal of the records, this court finds that this case is identical to the case of Vijay Kumar in CWJC No. 1955/2019. The Court also finds from the letter dated 15th July, 2018 written by the District Magistrate, Gaya that he had in fact directed the Sub-Divisional Officer, Sadar Gaya to take necessary action against the Public Distribution Shop dealer and inform him within one month.

In the opinion of this court, the District Magistrate who acts as an appellate authority under the statute could not have issued such direction to take action against the dealer and it should have been left open for the Sub-Divisional Officer to exercise his independent mind in the facts and circumstances of



the case while taking a decision in the matter. Such interference alone would render the impugned order bad in law.

The Writ Application is, thus, allowed in terms stated in the order dated 27.02.2019 passed in CWJC No. 1955/2019.

The Writ Application stands disposed of.

(Rajeev Ranjan Prasad, J)

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