

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2587 of 2019

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Jugeshwar Prasad, Male, aged about 59 years, son of Mahadeo Mahto
Resident of Village- Kurmawan, Village Panchayat- Kurmawan, Police
Station- Cherki, District- Gaya.

... .. Petitioner/s

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, Bodhgaya, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binay Kumar
For the Respondent/s : Mr.S Raza Ahmad (Aag 5)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 03-05-2019 Heard learned counsel for the petitioner as well as

learned counsel for the State.

In the nature of the order proposed to be passed,
learned counsel for the State submits that the writ application
may be disposed of without waiting for a counter affidavit.

It appears that the petitioner in this case is aggrieved
by Memo No.19 dated 04th January, 2019 by which the licence
of the petitioner for the Public Distribution System Shop has
been cancelled. A limited point which has been raised on behalf
of the petitioner at this stage, to assail the impugned order. It is
submitted that on 03.01.2019 itself the petitioner had submitted
his show cause. A copy of the same has been brought on record



vide Annexure '2' to the writ application. It is submitted that although, the show cause of the petitioner was available on the record on 03rd January, 2019 itself, while passing the impugned order on 04th January, 2019 the show cause of the petitioner has not been taken into consideration. This being the position, learned counsel submits that it is a fit case in which a direction be issued to the Sub-Divisional Officer, Sadar Gaya to consider the entire matter afresh and pass an appropriate order thereon.

Learned counsel for the State submits that it is the submission of the petitioner that he had filed a show cause on 03.01.2019 which may be verified from the records and in case if it is found on the record, a fresh decision may be taken by the Sub-Divisional Officer, Sadar Gaya.

In the aforesaid view of the matter, the writ application is being disposed of with a liberty to the petitioner to file an application before the Sub-Divisional Officer, Sadar Gaya along with the certified copy of this order requesting him to consider his show cause and pass a fresh order without being prejudice by the order as contained in Memo No.19 dated 04th January, 2019. If such an application with a certified copy of this order is filed before the Sub-Divisional Officer, Sadar Gaya, he will consider the same and in case it is found that the show



cause of the petitioner was submitted in his office on 03rd January, 2019, he will consider the same independently and without being prejudiced by the impugned order dated 04th January, 2019 and shall pass a fresh order thereon in accordance with law. Till such time, the impugned order dated 04th January, 2019 shall not be given effect to.

In case, the show cause of the petitioner is not found on the record, the petitioner will have the liberty to prefer a statutory appeal against the Memo No.19 dated 04th January, 2019 on any other and further grounds which may be available to the petitioner in accordance with law and in case such an appeal is preferred, the same will be considered by the appellate authority and will be disposed of within a period of 60 days from the date of the filing of the same. In case, any question of limitation would arise for consideration, the same will be considered keeping in mind that the petitioner was pursuing his remedy before this Court.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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